

Iglesias v. Guevara, et al.,
19 CV 06508

EXHIBIT 31

1 APPEARANCES: (Cont'd)

2
3 THE SOTOS LAW FIRM, P.C., by
4 MR. DAVID A. BRUEGGEN
5 MR. KYLE CHRISTIE
6 (141 West Jackson Boulevard,
Suite 1240A
Chicago, Illinois 60604
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7 appeared on behalf of the City
8 of Chicago police officer
defendants;

9
10 ROCK FUSCO & CONNELLY, LLC, by
11 MR. AUSTIN G. RAHE
12 (312 North Clark Street, Suite 2200
Chicago, Illinois 60654
arahe@rfclaw.com)

13 appeared on behalf of the
14 defendant City of Chicago;

15 LEINENWEBER BARONI & DAFFADA, LLC, by
16 MR. KEVIN ZIBOLSKI
17 (120 North LaSalle Street, Suite 2000
Chicago, Illinois 60602
kevin@ilesq.com)

18 appeared on behalf of the
19 defendant Guevara.

20 ALSO PRESENT:

21 BRETT SCHATZLE, Legal Videographer;

22 MARIBETH REILLY, Certified Shorthand
23 Reporter.
24

I N D E X

Witness:	Page
DAVID CHMIELESKI	
Examination by:	
Mr. Brueggen.....	6, 90
Mr. Rahe.....	55
Mr. Hazinski.....	60

E X H I B I T S

No.	Description	Marked/Referenced
CHMIELESKI DEPOSITION		
1	Photos Bates-stamped CCSAO Iglesias 0011.....	17
2	Photos Bates-stamped CCSAO Iglesias 0003.....	40
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1 THE VIDEOGRAPHER: This is the
2 beginning of Media Unit 1, and we are now on
3 the video record at 10:01 a.m.

4 This is the videotaped
5 videoconference deposition of David
6 Chmielecki being taken on April 27, 2021.
7 This deposition is being taken on behalf of
8 the defendant in the matter of Geraldo
9 Iglesias v. Reynaldo Guevara, et al. The
10 case number is 19 CV 06508 filed in the
11 United States District Court for the
12 Northern District of Illinois, Eastern
13 Division.

14 My name is Brett Schatzle,
15 legal videographer, representing Urlaub,
16 Bowen & Associates, with offices at 20 North
17 Clark Street, Suite 600, Chicago, Illinois.
18 The court reporter today is Maribeth Reilly,
19 also of Urlaub, Bowen & Associates.

20 Counsel, please identify
21 yourselves for the video record and the
22 parties which you represent.

23 MR. BRUEGGEN: Good morning,
24 Mr. Chmielecki. My name is Dave Brueggen.

1 I represent the defendant officers in this
2 case.

3 THE WITNESS: Good morning.

4 MR. RAHE: This is Austin Rahe for
5 the City of Chicago.

6 MR. CHRISTIE: This is Kyle
7 Christie on behalf of the individual
8 defendants.

9 MR. ZIBOLSKI: This is Kevin
10 Zibolski on behalf of Defendant Guevara.

11 MR. BRUEGGEN: John, your turn.

12 MR. HAZINSKI: Okay. I wasn't
13 sure if Kyle had made his appearance
14 already. This is John Hazinski,
15 H-a-z-i-n-s-k-i, on behalf of the plaintiff,
16 Geraldo Iglesias.

17 THE VIDEOGRAPHER: Will the court
18 reporter please swear in the witness.

19 (Witness duly sworn.)
20
21
22
23
24

1 DAVID A. CHMIELESKI,
2 called as a witness herein, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. BRUEGGEN:

6 Q. Good morning, Mr. Chmielecki. Can
7 you please state your full name, and spell
8 your last name for the record?

9 A. Sure. David Andrew Chmielecki.
10 Last name is C-h-m, as in money,
11 i-e-l-e-s-k-i.

12 Q. Thank you. And just since we are
13 doing this via Zoom, I just wanted to ask is
14 there anybody else present in the room with
15 you?

16 A. No. I'm by myself.

17 Q. Do you have any documents related
18 to the case that we are going to talk about
19 today with you?

20 A. Just a document for the summons.
21 That's it, yeah.

22 Q. The subpoena. All right. Great.
23 And, sir, have you ever given a deposition
24 before?

1 A. No, I haven't.

2 Q. Have you ever testified in court?

3 A. No.

4 Q. So there is a couple of ground
5 rules that we will go over. And throughout,
6 if you forget, we will remind you. But
7 first off, we need all your answers to be
8 out loud.

9 A. Okay.

10 Q. So use yes and noes. If you use
11 uh-huh or uh-uh or nod or shake your head,
12 we can see you. But to make sure the record
13 is clear, I may follow up with: "Is that a
14 yes or is that a no?" just to clear the
15 record up. Okay?

16 A. Okay.

17 Q. And also, since we are doing it
18 via video, and the court reporter is typing
19 everything that's said, it's important that
20 we take turns speaking. So I would ask that
21 you wait until I am done with my question
22 before giving an answer; and likewise, I
23 will wait until you are done answering
24 before I pose a new question. Okay?

1 A. Okay. No problem.

2 Q. If at any time you need to take a
3 break for any reason to use the bathroom, to
4 get something to drink, just let us know. I
5 ask if there is a question pending, you
6 provide an answer, and then we will take a
7 break. Okay?

8 A. Okay.

9 Q. I will be asking many questions
10 today, as some other attorneys might ask
11 questions. If at any time you don't
12 understand a question or didn't hear us or
13 the video froze, just let us know so we can
14 rephrase. Okay?

15 A. Okay.

16 Q. If you answer a question, we will
17 assume you understood the question. Okay?

18 A. Okay.

19 Q. Also today, you may hear
20 objections from some of the attorneys.
21 Since we don't have a judge here to rule on
22 objections, we will have you still answer
23 the question. So if you hear an attorney
24 objecting, let them finish the objection,

1 and then we will ask you to provide the best
2 answer you can. Okay?

3 A. Okay.

4 Q. Mr. Chmielewski, how old are you
5 today?

6 A. 47.

7 Q. Where do you currently reside?

8 A. [REDACTED], Chicago,
9 Illinois.

10 Q. How long have you lived there?

11 A. About 13 years.

12 Q. Is that a house or an apartment?

13 A. It's a two-flat.

14 Q. Do you have a unit number?

15 A. First floor.

16 Q. Who do you reside with?

17 A. Me and my roommate.

18 Q. What's your roommate's name?

19 A. Efrain Torres.

20 Q. How long have you been roommates
21 with Efrain Torres?

22 A. About two years.

23 Q. Mr. Chmielewski, where did you go
24 to high school?

1 A. Carl Schurz.

2 Q. Did you graduate?

3 A. Yes.

4 Q. What year did you graduate?

5 A. Wow, '92. Oh, man, I am not sure.

6 I haven't even thought about it.

7 Q. Let me say another thing. You
8 know, again, we don't want you to guess
9 today, but give us your best recollection.
10 And if you have to tell us it's an
11 estimation, that's fine as well. Okay?

12 A. Okay.

13 Q. Did you have any formal education
14 after graduating from high school?

15 A. No.

16 Q. Do you have any professional
17 licenses?

18 A. Security.

19 Q. And what type of license is that?

20 A. PERC card.

21 Q. And does that just allow you to
22 work as a security guard of sorts?

23 A. Yes.

24 Q. Are you currently employed?

1 A. Yes.

2 Q. Who is your current employer?

3 A. Securitas Security Service.

4 Q. Are you assigned to a certain
5 building or location?

6 A. Certain building, yes.

7 Q. Is that -- where is that building
8 located, generally?

9 A. It's downtown, River North area.

10 Q. How long have you been working for
11 Securitas?

12 A. About 20 years.

13 Q. Have you ever been a victim of a
14 crime?

15 A. Yes.

16 Q. And tell us what happened?

17 A. I was a teenager, and I got jumped
18 walking in the alley by four guys -- five
19 guys.

20 Q. Were you robbed or just beat up?

21 A. I just got beat up.

22 Q. Have you ever been sued in a
23 lawsuit?

24 A. No.

1 Q. Have you ever filed a lawsuit?

2 A. No.

3 Q. Have you ever filed a workers'
4 compensation claim?

5 A. No.

6 Q. Have you ever been convicted of
7 any crime?

8 A. No.

9 Q. Sir, are you on any medications or
10 suffer any conditions that would make it
11 difficult for you to provide clear and
12 honest testimony today?

13 A. No.

14 Q. Where did you live in June
15 of 1993?

16 A. I lived at 2148 North Sawyer.

17 Q. Was that a house or an apartment?

18 A. Apartment building.

19 Q. Did you have a specific unit that
20 you lived in?

21 A. Yes. I lived on the first floor.

22 Q. Was it just one unit per floor, or
23 were there multiple units?

24 A. There were two units.

1 Q. Which unit did you reside in?

2 A. First floor.

3 Q. Yeah, but was it east unit, west
4 unit, north, front, back?

5 A. North, north.

6 Q. Who did you live with in June
7 of 1993?

8 A. That would be my father.

9 Q. In June of 1993, how long had you
10 been living at 2148 North Sawyer?

11 A. I lived there since I was seven
12 years old. 20 years, I think. I don't
13 know.

14 Q. Was there an alley behind the
15 building?

16 A. Yes.

17 Q. Do you recall which direction that
18 alley ran?

19 A. That was -- that was -- what was
20 that? Is that south?

21 Q. Sorry.

22 A. Yes, that was it.

23 Q. What was the nearest east-west
24 street to your building off of Sawyer?

1 A. What was that? Palmer.

2 Q. Do you recall was there a boys'
3 club located near Palmer and Sawyer?

4 A. Yes.

5 Q. Where was that located?

6 A. That was across the street from
7 Sawyer.

8 Q. Was it on a corner, or was it --

9 A. Yes, it was on the corner, yeah.

10 Q. Did you ever go to that boys'
11 club?

12 A. Yes, yes.

13 Q. Can you tell us what that boys'
14 club was? What activities were done there,
15 or what happened there?

16 MR. HAZINSKI: Object to form.

17 THE WITNESS: Card games, board
18 games, basketball. They had a pottery
19 class, just hanging out with friends.

20 BY MR. BRUEGGEN:

21 Q. Was that open to anybody that was
22 in the neighborhood?

23 A. Yes.

24 MR. HAZINSKI: Objection to form.

1 BY MR. BRUEGGEN:

2 Q. Were there any age limitations on
3 who could go to the boys' club?

4 MR. HAZINSKI: Objection to form.

5 THE WITNESS: I don't remember. I
6 don't remember.

7 BY MR. BRUEGGEN:

8 Q. Did any gangs hang around the
9 boys' club?

10 MR. HAZINSKI: Objection to form.

11 THE WITNESS: Honestly, I don't
12 remember. They could have. I don't
13 remember.

14 BY MR. BRUEGGEN:

15 Q. Back in 1993, were you a member of
16 any gangs?

17 A. No.

18 Q. Back in June of 1993, did you have
19 a job?

20 A. Did I? I think I was working for
21 Printers Repair Parts. I am not sure.

22 Q. Did you have any type of job where
23 you helped watch children or a child?

24 A. Yes. My next-door neighbor,

1 Bernice Bullocks.

2 Q. By your next-door neighbor, would
3 she be the first floor south unit then?

4 A. Yes.

5 Q. What did you do for Ms. Bullocks?

6 A. She went out a lot, and I just
7 checked up on her son every once in a while,
8 make sure he was okay.

9 Q. What was her son's name?

10 A. Steve.

11 Q. How old was Ms. Bullock's son?

12 A. At the time?

13 Q. Yes, sir.

14 A. Probably 13. I am not sure.

15 Q. Was there any reason that you were
16 watching him?

17 A. Yes. He had Down's syndrome.

18 Q. So watching him, would you be
19 baby-sitting him; or would you just check in
20 on him?

21 A. I checked up on him. He was right
22 across from me. She gave me the key. I
23 would just go in there, see if he was all
24 right, and then go back to my unit.

1 Q. Mr. Chmielewski, can you see me
2 okay when I speak?

3 A. Yes.

4 Q. Okay. I am going to show you what
5 we will mark as Exhibit No. 1, and I will
6 put it up on the screen, and if you can just
7 confirm that you can see it? I am putting
8 it up right now. Do you see?

9 A. Okay. Yeah, yeah, yes.

10 (Whereupon, Chmielewski
11 Deposition Exhibit No. 1 was
12 screen-shared/referenced.)

13 MR. BRUEGGEN: And for the record,
14 Exhibit No. 1 will be CCSAO Iglesias 0011.

15 BY MR. BRUEGGEN:

16 Q. And do you see two photos there,
17 sir?

18 A. Yes.

19 Q. I want to focus on just the top
20 photo. So I will zoom in so you can see it,
21 okay, a little clearer?

22 A. Okay.

23 Q. Do you recognize what's depicted
24 in the top photo of Exhibit No. 1?

1 A. Yes.

2 Q. What is that?

3 A. It's the building I lived in, and
4 I see people by my unit, which is right over
5 here, where the guys are just standing,
6 right above there, first floor.

7 Q. Is that a building you lived in
8 back in June of 1993?

9 A. Yes.

10 Q. So 2148 North Sawyer?

11 A. Yes.

12 Q. And you say the people in the
13 photo, that's the top photo of Exhibit
14 No. 1, are near a door?

15 A. Yes, right above them would be my
16 unit.

17 Q. Okay.

18 A. Right over here, right over there.

19 Q. So in that exhibit on the side of
20 the building where the people are, is that a
21 door to enter the building or --

22 A. Yes.

23 Q. -- or specifically to enter your
24 unit?

1 A. To enter the building.

2 Q. And you were just kind of
3 directing us to where your apartment was.
4 Can you tell us from that door on the side
5 of the building, would your apartment be to
6 the left of it or to the right of it?

7 A. To the right.

8 Q. So the front of the building
9 there?

10 A. Yes, yes.

11 Q. And then where did Ms. Bullocks
12 live?

13 A. She lived right on the left side
14 over here, next to -- up above, up above the
15 guy with the beige coat. That was her
16 floor.

17 Q. Okay. Did you know a person by
18 the name of Arnell Moore?

19 A. No.

20 Q. Mr. Chmielecki, do you recall a
21 shooting happening at about 3:50 p.m. on
22 June 7, 1993, near your building?

23 A. I heard -- I heard gunshots. I
24 was talking with somebody upfront. I was

1 kind of in the door right there, not out of
2 it, but sort of -- right in front of the
3 door over there.

4 Q. When you say "the door," is that
5 the side door where you see people in
6 Exhibit No. 1?

7 A. Yes. I wasn't quite out. I was
8 inside still, but I was talking to somebody
9 outside, and a guy ran past me.

10 Q. Do you recall who you were
11 speaking to?

12 A. I thought it was my friend Efrain,
13 but he said it wasn't him, so I -- I am not
14 sure.

15 Q. You say you recall hearing
16 gunshots?

17 A. I think I heard a shot, and then
18 someone ran past wearing a hoodie. It was
19 like a second, and they had their face
20 covered. I saw someone. It could have been
21 a man, a woman. It could have been a
22 bystander running. I wasn't sure. That's
23 all I saw.

24 Q. Do you recall how many gunshots

1 you heard?

2 A. No, I don't.

3 Q. Did you actually see the shooting
4 or just hear gunshots?

5 A. I just heard something, heard a
6 shot.

7 Q. Prior to hearing the shots, did
8 you hear anything else? People talking,
9 screaming?

10 A. No. I was focused talking with
11 somebody.

12 Q. How about after the gunshots, did
13 you hear anything? Tires screeching, or
14 yelling?

15 A. It was so long ago, I don't even
16 remember.

17 Q. You said when you heard the
18 gunshots, you would have been inside the
19 building but in the doorway on the side of
20 the building that we just looked at?

21 A. Yes.

22 Q. And the person you were speaking
23 to, were they outside the building?

24 A. Yes.

1 Q. Do you remember if Stevie was
2 around when you heard the gunshots?

3 A. No, no.

4 Q. When you were watching Stevie or
5 looking after him, would he be escorted to
6 the building by a bus driver?

7 A. Yes.

8 Q. Do you remember was it the same
9 bus driver every day?

10 A. I don't remember. I really wasn't
11 involved in that. I would just watch her
12 son every once in a while. She would throw
13 me a few bucks to watch him every once in a
14 while. That was pretty much it.

15 Q. Were you ever watching her son
16 when the bus driver would drop him off at
17 the building?

18 A. No.

19 Q. Prior to hearing the gunshots, did
20 you see anybody standing outside of the
21 building in the general area?

22 A. No.

23 Q. What did you do after you heard
24 the gunshots?

1 A. Yeah. I went back into -- I ran
2 up to my unit.

3 By the way, I heard a gunshot,
4 but I wasn't sure it was a gunshot at first
5 because I was absorbed with talking with my
6 friend, and then somebody ran past, and then
7 I went up to my unit.

8 Q. Were you standing in that doorway
9 when someone ran past?

10 A. Yes.

11 Q. Tell us, what did you do when you
12 went up to your unit?

13 A. I think I -- I would have -- my
14 natural instinct was just to look out my
15 window blinds to see what was going on.
16 That's probably what I did.

17 Q. And do you recall doing that, or
18 are you just thinking that's what you did?

19 A. I am thinking that's what I would
20 have did.

21 Q. Do you have any recollection of
22 seeing anything when you looked out the
23 window blinds?

24 A. No.

1 Q. When you heard the gunshots, did
2 you know where the gunshots had taken place?
3 What location or area?

4 A. No.

5 Q. Did you ever see a car outside
6 your window on the corner of Sawyer and
7 Palmer shortly after gunshots?

8 A. I can't remember.

9 MR. HAZINSKI: Object to the form,
10 belatedly.

11 BY MR. BRUEGGEN:

12 Q. Going back to the person that you
13 said you saw running by, okay, sir?

14 A. Yes.

15 Q. Can you describe that person via
16 height and weight?

17 A. It was so fast, it was like
18 seconds. I just saw a person went by, a
19 hoodie covering their face. I couldn't tell
20 you the height. I don't even know if it was
21 a male or female. It was so fast. That's
22 all I saw.

23 Q. Was it a large person, like a
24 heavy-set person or --

1 A. I -- thinking back, I don't
2 remember a heavy-set person. He seemed
3 maybe average. I would go with average
4 build.

5 Q. You said they were wearing a
6 hoodie covering their head?

7 A. Yes, head and arms, yeah.

8 Q. Do you remember what color the
9 hoodie was?

10 A. Black. I remember it was black.

11 Q. Do you remember the color of their
12 pants or shorts?

13 A. No. I just saw the hoodie.

14 Q. Sir, going back to Exhibit No. 1,
15 and I will share that with you again, put it
16 up on the screen.

17 A. Okay.

18 Q. Do you see that, sir?

19 A. Yes.

20 Q. On Exhibit No. 1, you were at the
21 door, which I am indicating, there is a
22 gentleman in what looks like a gray sport
23 coat right outside. Do you see that?

24 A. Yes. I was standing there, and he

1 ran past me towards the alley.

2 Q. And could you tell me, did he run
3 from the front of the building out here,
4 back towards the, looks like, garages?

5 A. I couldn't tell. I just remember
6 they ran in the direction of the alley. I
7 don't know where they were coming from.

8 Q. But when he ran past you when you
9 were looking out that door, did he run from
10 your left to your right?

11 A. Yes. Yes, left to right, yes.

12 Q. And then you said he ran to an
13 alley. Where is the alley located?

14 A. It's right behind the garage
15 that's attached to the building. He ran in
16 that direction, that direction.

17 Q. Looking at Exhibit 1, would that
18 be by the gentleman that looks like a black
19 with a little bit of blue on the shoulder?

20 A. Yes.

21 Q. And did you see if the gentleman
22 who ran by ran into the alley?

23 A. No, I didn't see that. I wasn't
24 out of the door, so I didn't see him turn or

1 anything.

2 Q. After the shooting, did you call
3 the police?

4 A. No.

5 Q. Did the police come to the scene
6 after the shooting?

7 A. Yes, because the police -- I don't
8 even remember. I remember they came to my
9 house late at night, and they wanted me to
10 see photos and stuff and a lineup.

11 Q. Do you recall was that the same
12 day of the shooting or at a different time?

13 A. Same day. I think it was the same
14 day, yeah.

15 Q. Do you recall whether it was
16 police that came to your house in uniforms,
17 or were they dressed in plainclothes?

18 A. I think it was plainclothes
19 detectives, yeah, yeah. I don't remember a
20 uniform.

21 Q. Do you remember how long after the
22 shooting that the police came to your
23 apartment?

24 A. It was late at night. I don't

1 remember the time, but it was -- it was some
2 time after. Probably 9:00 p.m. at night. I
3 am not sure.

4 Q. How many police came to your door?

5 A. I think two. I can't be
6 100 percent on that. I think maybe two.

7 Q. Do you recall the name of either
8 of the police officers who came to your
9 door?

10 A. No, I don't.

11 Q. Do you recall what the police
12 officers looked like that came to your door?

13 A. No, I completely forgot about
14 this. I don't even remember.

15 Q. Did you speak to the police
16 officers when they came to your door?

17 A. Yes.

18 Q. Where did you talk to the police?

19 A. They came to my home, my unit.

20 Q. And did you agree to speak with
21 the police?

22 A. Yeah, yeah. I told them what I
23 saw, which wasn't much, but they still
24 wanted me to come to the police station.

1 Q. Sir, do you remember more than one
2 interaction with police, speaking to the
3 police about this incident?

4 A. Oh, man, I can't remember. No,
5 no.

6 Q. Do you recall speaking to police
7 after the incident and providing them
8 information and the police leaving?

9 A. I don't remember.

10 Q. When you spoke to the police, did
11 you provide your contact information?

12 A. Oh, man, did I? I must -- I
13 guess, yes, because they came to my home, so
14 yeah.

15 Q. Do you recall anything you told
16 the police when they came to your home and
17 you spoke to them in your home?

18 A. I remember I -- I was a little bit
19 irritated because I didn't want to go to the
20 police station but I wouldn't be of any help
21 because I didn't see anything. They wanted
22 me to see photos, but I couldn't pick
23 anything out because I didn't see a face.

24 Q. When you spoke to the police at

1 your house, did they want you to look at
2 photos at that time?

3 A. I don't remember if they showed me
4 photos. I only remember the photos when I
5 went to the police station.

6 Q. What do you recall about photos at
7 the police station?

8 A. They had me look through them. I
9 thought it was -- I didn't see any point to
10 it, but I looked through them anyways, and I
11 kept telling them, no, I don't recognize
12 anybody. I didn't see a face.

13 And then they had me go to a
14 lineup to see if I could pick somebody out,
15 and I didn't pick anybody out because I
16 didn't see anybody.

17 Q. When the police were at your
18 apartment, do you remember how long you
19 spoke to them when they were inside your
20 apartment?

21 A. It was briefly. I don't recall
22 exact time. It wasn't too long, I think.

23 Q. Was it more than a half an hour?

24 A. I would say less.

1 Q. Was it more than 15 minutes?

2 A. Man, what was it? I don't recall.

3 Q. Do you recall the police officers
4 that you spoke to then leaving your
5 apartment that evening?

6 A. Yes.

7 Q. After the police officers left
8 your apartment, did you have another contact
9 with other police officers or detectives?

10 A. Only until late at night when they
11 came to pick me up. That was it.

12 Q. Do you recall whether that was the
13 same day or whether that was some time after
14 the shooting?

15 A. I'm thinking -- I'm thinking it
16 was the same day.

17 Q. Tell me what happened when they
18 came? You say late at night. Can you tell
19 me was that early hours of the morning or
20 late at night?

21 A. It was late at night. It was late
22 at night. My father woke me up. I think I
23 was sleeping, and he told me that the police
24 were here, they wanted to talk to me.

1 Q. And the police that were at your
2 apartment at that time, were they in
3 uniforms or plainclothes?

4 A. I can't be 100 percent sure, but I
5 don't remember, that I can recall, any
6 uniforms. I think they were plainclothes.

7 Q. Do you recall either of the police
8 officers' names?

9 A. No, I don't.

10 Q. Do you recall a description of
11 either of them?

12 A. No. This whole incident, I
13 completely forgot about until last year when
14 I got notified about it.

15 Q. So those police officers, what did
16 they say to you when they showed up at your
17 apartment late at night?

18 A. I don't even remember. It's just
19 they wanted me to come down to the station
20 and look at pictures and do a lineup, check,
21 you know -- I kept telling them I didn't see
22 anything. What would be the point? I can't
23 help them because I didn't see anything, but
24 I went. They wanted me to go, so I went.

1 Q. And you agreed to go with them?

2 A. Yes.

3 Q. You wanted to try to help out the
4 best you could?

5 A. Yeah, even though it wouldn't be
6 any help.

7 Q. Did the police officers that you
8 remember in plainclothes, did they drive you
9 to the police station?

10 A. Yes, they did. Drove me there and
11 drove me back home.

12 Q. Do you remember where the police
13 station was located?

14 A. Where was it? No.

15 Q. Was anybody with you when you were
16 picked up? Did you ride with anybody else
17 to the police station?

18 A. Yes, my best friend. He lived in
19 the building, Efrain Torres.

20 Q. And that's your current roommate?

21 A. Yes.

22 Q. In addition to speaking to you,
23 the police also had Mr. Torres?

24 A. Can you repeat that please?

1 Q. Yes. In addition to speaking to
2 you that night, the police also had
3 Mr. Torres that they drove to the station
4 that night?

5 A. Yes.

6 Q. Do you know if the police had
7 talked to Mr. Torres that night?

8 A. I -- I am not sure. You'd have to
9 talk to him. I don't remember.

10 Q. Do you know if the police had
11 previously talked to Efrain Torres at a
12 prior time?

13 A. I don't remember.

14 Q. What happened after you arrived at
15 the police station?

16 A. They had me look at photos. I
17 looked at them. I didn't see any point to
18 it, but I did.

19 Q. Can you tell me, can you describe
20 the photos that you looked at? Was it just
21 individual photos? Was it a photo book?
22 Was it several photos on a piece of paper?
23 Can you describe what you looked at?

24 A. It was like a photo book with

1 different pictures of people.

2 Q. Do you know if the photo book had
3 any type of name or affiliation?

4 A. No, I don't recall that.

5 Q. Do you recall how thick the photo
6 book was?

7 A. Yeah, I think it was a pretty
8 thick book, I think I remember, yeah.

9 Q. Like an inch or two inches thick?

10 A. Bigger than that, bigger.

11 Q. So three inches, four inches
12 thick?

13 A. Yes, a big solid book with lots of
14 photos.

15 Q. And you looked through all the
16 photos?

17 A. I looked through them. I don't
18 know -- I don't remember if I looked through
19 all of them, but I looked through it. You
20 know, they wanted me to look through it so I
21 did.

22 Q. So because you had only seen a
23 black hoodie, you hadn't seen the person's
24 face, you couldn't identify anybody in the

1 photos?

2 A. Yes, that's why I thought it was
3 pointless to me, but I looked anyway.

4 Q. Do you recall who showed you the
5 photos, whether it was --

6 A. No, I don't. I don't recall.

7 Q. You don't have any description?
8 Was it a plainclothes person or a uniformed
9 person?

10 A. I don't recall. I don't even
11 remember.

12 Q. Do you remember where you were
13 when you looked at the photos? What type of
14 room or setting?

15 A. Yeah, I think I was in a room. I
16 don't know what kind of room, but just some
17 room. I don't remember.

18 Q. Was anybody else in the room with
19 you when you were looking at the photos?

20 A. Man, was there? I can't -- I
21 can't recall. I don't want to give you a
22 yes or no if I don't remember.

23 Q. That's perfectly fine, sir. And
24 so, you were handed the book and asked to I

1 look at photos and see if you recognize
2 anybody?

3 A. Yes.

4 Q. Any other interaction with the
5 police? Any other interaction with the
6 police regarding the photos?

7 A. No. They just, look through them,
8 and then I handed it back and told them, you
9 know, I can't help you.

10 Q. You also mentioned earlier that
11 you viewed a lineup, right?

12 A. Yes, yes.

13 Q. Was that before or after you
14 looked at the photos?

15 A. After.

16 Q. Can you tell us about this lineup
17 that you looked at? How did it work?

18 A. I think I went to a room, and
19 there was a glass. Of course, they couldn't
20 see me, and I saw some people standing
21 there, and they wanted to know if I
22 recognized anybody, and I told them no.

23 Q. Do you remember the detective or
24 officer that was with you asking if you

1 recognize anybody?

2 A. I don't know. I don't remember
3 the -- I remember somebody asked me if I
4 recognized. I don't know who it was, and I
5 just told them no, I can't help you. I
6 just -- that's what I kept telling them, I
7 couldn't help them.

8 Q. You don't recall that person who
9 asked you if you recognized anybody --

10 A. No.

11 Q. -- their name?

12 A. I don't recall what they looked
13 like.

14 Q. And you said on the other side of
15 the glass were people for you to look at?

16 A. Yes.

17 Q. Do you recall was there an officer
18 or a detective in with those people?

19 A. I don't recall.

20 Q. After you told the person that was
21 in the room with you that you couldn't
22 identify anybody, what happened then?

23 A. What happens? I don't know if I
24 went back to look at more photos. I don't

1 remember. Maybe I went to look at more
2 photos, and I didn't pick anybody out, and
3 then they took me home.

4 Q. Sir, for the lineup, were you
5 willing to participate in the lineup and
6 look at it?

7 A. Yeah. I told them I didn't see
8 any point to it, but they wanted me to look
9 anyway so, you know, I wasn't going to
10 argue, so I went and looked anyways.

11 Q. And did the person that was in the
12 room with you when you were viewing the
13 lineup pressure you to choose anybody?

14 A. I don't recall any pressure. I
15 know I was irritated with the whole thing.
16 But not really "pressure" pressure. No, I
17 am going to go with a no on that.

18 Q. Did any police officer or
19 detective ever indicate a certain person for
20 you to pick out?

21 A. No.

22 Q. Did any of the police officers or
23 detectives do anything that made you feel
24 uncomfortable during the lineup?

1 A. No.

2 Q. I think you described it as you
3 were annoyed because you had not seen
4 anything and that's why?

5 A. Yeah. I was annoyed with the
6 whole experience. I thought it was
7 pointless, but I wanted to be helpful, I
8 guess.

9 (Whereupon, Chmielecki
10 Deposition Exhibit No. 2 was
11 screen-shared/referenced.)

12 BY MR. BRUEGGEN:

13 Q. Sir, I am going to show you what
14 we will mark as Exhibit No. 2. Sir, do you
15 see a couple of photos up on the screen
16 here?

17 A. Yes.

18 Q. This will be marked as Exhibit 2,
19 and for the record, this is CCSAO Iglesias
20 00003. Do you see that, sir? I can zoom
21 in.

22 A. Okay, yes.

23 Q. And do you know what this is a
24 photograph of?

1 A. Is it a lineup?

2 Q. I am just asking for what your --
3 if you recognize this photo at all or the
4 people --

5 A. No.

6 Q. -- in the photo?

7 A. No.

8 Q. Do you recall after participating
9 in the lineup whether you spoke with an
10 Assistant State's Attorney?

11 A. I don't recall that.

12 Q. Do you recall speaking to attorney
13 that night when you were at the police
14 station?

15 A. No.

16 Q. And after the lineup, do you
17 recall that you were driven home by the
18 police?

19 A. Yes.

20 Q. Do you remember how long that
21 interaction took from when you left your
22 apartment to when you returned?

23 A. I don't recall.

24 Q. To the best of your recollection,

1 did it take a couple of hours; or was it
2 like half a day?

3 A. Oh, it was -- it was -- oh, man, I
4 don't recall. I don't remember.

5 Q. After that night at the police
6 station when you were asked to do the
7 lineup, when was the next time you spoke to
8 anybody about this case and what you saw?

9 A. That was it. I didn't -- I don't
10 remember speaking to anybody until last
11 year. I completely forgot about the whole
12 incident.

13 Q. Tell me about last year when you
14 spoke to somebody?

15 A. Some guy Oscar, I think, came by,
16 and he just wanted to know about -- he was
17 asking me questions about it. He was
18 working for an attorney, I think. I don't
19 remember, and he just wanted to hear my
20 point of view, what happened, which wasn't
21 much, because it's pretty much what I am
22 telling you.

23 Q. Is there anything that you told
24 Oscar that you haven't told us so far today?

1 A. That same thing I told you, I told
2 Oscar.

3 Q. How many times did you speak to
4 Oscar?

5 A. Man, he came by like four times.

6 Q. Was there a reason he came by four
7 times?

8 A. He had some stuff that was printed
9 out that he wanted me to sign. Basically,
10 it was a form. Pretty much everything I
11 told him was on the form, and he wanted me
12 to read it to make sure it was correct, and
13 I signed it. And then something was wrong,
14 and then he came back, and he wanted me to
15 check it, and I checked it over again, and
16 that was it.

17 Q. So did you talk to this person
18 Oscar a couple of times before he came with
19 the paper?

20 A. Yeah, he came by a lot, but I was
21 never home. So he kept coming by a lot, and
22 at first, I didn't want to talk to this guy.
23 I didn't know who he was, but then I
24 realized he was going to keep coming, so I

1 answered his phone call. I -- you know, he
2 left his phone number, and I got back to
3 him.

4 Q. Did you tell him -- did you answer
5 his questions?

6 A. Yeah, I did. And I told him what
7 I saw, which wasn't much, and he was on a
8 speakerphone with a lawyer or attorney or
9 somebody, and they were listening to what I
10 was saying, and he was writing it down, I
11 guess, and that was it.

12 Q. And then you said he brought you a
13 piece of paper that purported to say what
14 you told him?

15 A. Yes, yes.

16 Q. And --

17 A. He asked to make a correction.

18 Q. Was that the last time you saw him
19 was when he brought the piece of paper?

20 A. Yes. And that was supposed to be
21 it, and I was supposed to be done with the
22 whole thing.

23 Q. Understandable. At that time when
24 he brought you the piece of paper, did you

1 sign that piece of paper?

2 A. Yes, I looked it over, and it
3 looked fine, and then I signed it. I asked
4 for a copy. And he said, I couldn't get a
5 copy yet. They would mail it to me. I
6 never got nothing.

7 Q. Did they ever mail you a copy?

8 A. No.

9 Q. You also mentioned something about
10 some corrections. What did you mean by
11 that?

12 A. I think he was talking to Efrain
13 about this stuff. He also talked to Efrain
14 and got his point of view. What was the
15 correction? It was -- what was it about?
16 It was -- it was something that wasn't a big
17 deal. I didn't realize why he came over
18 about that. What was it? Man, I wish
19 Efrain was here. He'd remember that. He's
20 got a better memory than me. I don't
21 remember. It was -- it was so
22 insignificant, I don't even remember it.

23 Q. Sir, why did you sign that
24 declaration?

1 A. I figured it would be done with.
2 And he said it would be, you know, we'd be
3 done, and we won't bother you no more.

4 Q. Have you been bothered by him?

5 A. No. I am exaggerating. I was
6 just irritated that he was coming by a lot.
7 I work the night shift, and I think he was
8 coming by a lot in the morning when I was
9 sleeping.

10 Q. Did you feel any pressure to sign
11 the declaration?

12 A. No, no.

13 (Whereupon, Chmielecki
14 Deposition Exhibit No. 3 was
15 screen-shared/referenced.)

16 BY MR. BRUEGGEN:

17 Q. Sir, I am going to show you what
18 we will mark as Exhibit 3. Sir, do you see
19 a document up on your screen?

20 A. Yes.

21 Q. And this is a two-page document.
22 I want to show you this. Page 1 is Iglesias
23 2123, and page 2 is Iglesias 2124.

24 A. Yes.

1 Q. Do you see that? And look at page
2 2, do you see your signature on there?

3 A. Yes. Okay, that's -- that was the
4 correction. When he crossed out and put
5 "someone," and then my initials, that was
6 the correction, okay.

7 Q. What do you recognize Exhibit 3 to
8 be?

9 A. Let me read this. Pretty much a
10 printed-off form of what I told him of what
11 I saw.

12 Q. Exhibit 3 is the declaration you
13 were just telling us about that Oscar came
14 by for you to sign?

15 A. Yes.

16 Q. And you pointed out that on the
17 first page of Exhibit 3, there is some
18 cross-outs with some handwriting?

19 A. Yes. That's what he came back
20 for, yes. Okay, I forgot about that there.

21 Q. Was this corrected after you had
22 already signed it?

23 A. Yes.

24 Q. So let's look at the first

1 correction in paragraph 2, it originally
2 said "That day I was talking to a friend,
3 Efrain Torres"?

4 A. Yes.

5 Q. You see "friend Efrain Torres" is
6 struck out, and it says "someone outside."
7 Do you see that?

8 A. Yes, because Efrain said it wasn't
9 him I was talking to, so I thought it was.
10 It was so long ago. I thought it was
11 probably him I was talking to, but he said
12 it wasn't him, so they crossed it out.

13 Q. Then did you put your initials
14 next to the changes there?

15 A. Yes.

16 Q. Then below that in number 3, it
17 looks like you added to that statement that
18 says, "They showed me an album full of lots
19 of pictures"?

20 A. Yes.

21 Q. Before that, you said, "either at
22 the station or at home." Do you see that,
23 sir?

24 A. Yes. Because I couldn't recall if

1 they showed it to me at home or not. I
2 wasn't sure about that. I remember the
3 station definitely, but I don't remember if
4 it was at home.

5 Q. Do you remember how many times you
6 looked at photo albums?

7 A. I remember the station. I can
8 recall that clearly without a doubt.

9 Q. Sir, going to the second page of
10 Exhibit No. 3, and paragraph 6 up here. I
11 will zoom in, make it a little clearer,
12 easier for you to read. Can you see that
13 okay?

14 A. Yes.

15 Q. At the last sentence of paragraph
16 6, it says, "I felt some pressure to pick
17 someone but I never did." Do you see that,
18 sir?

19 A. Yes, yes. Oh, man.

20 Q. My question for you is: Were
21 those your words? Did you tell the
22 investigator that you felt some pressure to
23 pick someone?

24 A. I don't -- man, I don't remember.

1 Like I said, I was irritated with the whole
2 thing. I know they wanted me to pick
3 someone. But pressure, oh, man, that's a
4 hard one because I, obviously, didn't pick
5 anybody, so it wasn't that much pressure.
6 So I am going to have to go with no on that.

7 Q. At the time of this incident, you
8 had been living in that neighborhood for at
9 least ten years?

10 A. I had been living there since I
11 was seven years old in that neighborhood.

12 Q. I am an attorney. I can't do math
13 that quick, so I will say just roughly ten
14 years or more?

15 A. Yes, more, more.

16 Q. Were you familiar with any gangs
17 that frequented your neighborhood?

18 A. I stayed out of the gangs. I
19 didn't deal with any of that stuff.

20 Q. Did you ever have any run-ins with
21 gangs?

22 A. No, except for the one time when I
23 was walking with my friend through the
24 alley, and I got jumped when I was a

1 teenager. He ran off, and I then looked
2 behind me, and they just swarmed me.

3 Q. Do you know if you had been jumped
4 by a gang?

5 A. I think it was a gang because I
6 was pretty stupid that day, and I was
7 wearing red and black.

8 Q. So you think it was you were
9 wearing colors of a gang --

10 A. Yes.

11 Q. -- and they had an issue with
12 that?

13 A. Right.

14 Q. Do you recall how old you were at
15 the time?

16 A. Maybe I was 17. I am not sure.

17 Q. Was it before or after the
18 shooting that we have been talking about?

19 A. Oh, that was way before.

20 Q. And the friend that you were with,
21 who was that?

22 A. Old friend, that was Jesse
23 Montero.

24 Q. Sir, I wanted to ask you if you

1 know some people, and I am just going to
2 read you some names, and just let me know if
3 you know them, and then I will ask you how
4 you know them, okay?

5 A. Yes.

6 Q. Did you know someone by the name
7 of Mercy Cordero?

8 A. No.

9 Q. How about somebody by the name of
10 Monica Roman?

11 A. No.

12 Q. Did you know somebody by the name
13 of Frank Vasquez?

14 A. No.

15 Q. Did you know somebody by the name
16 of Rosendo Ochoa?

17 A. No.

18 Q. Did you know somebody by the name
19 of Daniel Sanchez?

20 A. No.

21 Q. Did you know somebody by the name
22 of Freido Rodriguez?

23 A. No.

24 Q. Did you know somebody by the name

1 of Jesus Gonzales?

2 A. No.

3 Q. Did you know somebody by the name
4 of Jose Cornell?

5 A. No.

6 Q. Did you know somebody by the name
7 of Geraldo Iglesias?

8 A. No.

9 Q. Did you know somebody by the name
10 of Francisco Vicente?

11 A. No.

12 Q. Did you know somebody named Rosie
13 Cruz?

14 A. No.

15 Q. How about a girl by the name of
16 Miranda Nieves?

17 A. No.

18 Q. Sir, just going back to your
19 interactions with the detectives or police
20 related to this case, did anybody act
21 unprofessional towards you?

22 A. No, no.

23 Q. Did any detective or police
24 officer ever force you to do something you

1 didn't want to do?

2 A. No. They were pretty
3 professional.

4 Q. Did anybody tell you we want you
5 to pick this person?

6 A. No. They wanted me to keep
7 looking. That's what irritated me.
8 Because, you know, what am I going to find
9 if I didn't see anything? They kept wanting
10 me to look and look. Are you sure? Are you
11 sure? Yeah, I'm sure.

12 Q. So they were persistent in trying
13 to get you to view things?

14 A. Yeah. You know, take a second
15 look. You know, look through the pictures.
16 You saw everything? I'm like, yeah, I see
17 no point to it. But, yeah, I looked through
18 it.

19 Q. And did they ever point out a
20 picture or point out a person and say, "Are
21 you sure it's not this guy?"

22 A. No, I don't remember anything like
23 that.

24 MR. BRUEGGEN: Sir, those are all

1 the questions I have. Some of the other
2 attorneys probably have some questions, but
3 thank you very much for your time. I
4 appreciate it.

5 THE WITNESS: Thank you. No
6 problem.

7 MR. HAZINSKI: I have some
8 questions, but I want to make sure I give --

9 MR. BRUEGGEN: Austin or Kevin, do
10 you guys have any questions.

11 MR. ZIBOLSKI: This is Kevin. I
12 don't have any follow-up to that.

13 MR. RAHE: Yeah, I just have a
14 couple of questions.

15 EXAMINATION

16 BY MR. RAHE:

17 Q. Hi, Mr. Chmielecki, my name is
18 Austin Rahe. I am an attorney for the
19 defendant City of Chicago in this case.

20 A. Hello.

21 Q. I just have a couple of questions
22 for you.

23 A. Sure.

24 Q. The person Oscar who kept stopping

1 by your place, do you have his cell phone
2 number or card still handy?

3 A. Yes. Hold on. Let me see. I
4 think it's on my phone here. Where is he
5 at? Hold on. Yes, I got his number.

6 Q. What is his number?

7 (Whereupon, certain
8 proceedings were had and
9 designated as Confidential -
10 Attorneys' Eyes Only and are
11 transcribed under separate
12 cover.)

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1 (Whereupon, the following
2 proceedings were not
3 designated as Confidential -
4 Attorneys' Eyes Only:)

5 BY MR. RAHE:

6 Q. Do you have Oscar's last name?

7 A. No.

8 Q. And then you said that the
9 individual that ran by you, his face was
10 covered?

11 A. Yeah, I saw a side profile with a
12 hoodie on.

13 Q. So I am just -- I just want to
14 understand what you mean by covered because,
15 you know, my understanding is when, you
16 know, someone is wearing a hoodie, the front
17 of their face is not covered. There is an
18 opening, right?

19 A. Yes. That's why I said it was a
20 side profile. The hoodie was over their
21 head, and I just saw a side profile of the
22 person running by. That was it. The hoodie
23 was on, and that's all I saw.

24 Q. So the hoodie was, you know, big

1 enough --

2 A. Yes.

3 Q. -- to maybe go over the sides?

4 A. Yes, yes.

5 Q. And he was running by, so you
6 didn't see?

7 A. Yes, like one second. It was so
8 fast.

9 Q. And then you said you lived with
10 Efrain Torres now, right?

11 A. Yes. Now, yeah.

12 Q. And that's the same individual
13 that you were talking about who you were
14 friends with back in 1993, right?

15 A. Yes. He lived up on the third
16 floor.

17 Q. And you guys have just remained
18 friends over the years?

19 A. Oh, yeah. We've been buddies
20 since grammar school.

21 Q. Did you talk with Efrain Torres
22 about your deposition at all today?

23 A. We talked about it, yeah. We
24 talked about this.

1 Q. What did you guys talk about?

2 A. Pretty much what did he see, and
3 he asked what I saw. Like I said, I thought
4 I was talking to him that day, but he said
5 it wasn't him so, you know, I was like,
6 okay.

7 Q. And what did he tell you about
8 what he saw?

9 A. He pretty much just told me he
10 didn't see much of anything. He said, he
11 heard the gunshots, and he looked out his
12 window.

13 Q. And did he say what he saw, or he
14 just looked out there, he didn't see
15 anything?

16 A. I don't remember. You'd have to
17 talk to him, but I don't remember what he
18 said.

19 Q. When did you have this
20 conversation with Efrain Torres?

21 A. I think the time when I got into
22 contact with Oscar, and he wanted to know
23 what we saw.

24 Q. But since then, you haven't talked

1 about anything to do with this case with
2 Efrain Torres?

3 A. No, not really. Like I said, we
4 both pretty much didn't see anything, so
5 there wasn't really much to talk about.

6 Q. Do you know anybody by the name of
7 Geraldo Iglesias?

8 A. No.

9 Q. When you were at the lineup, did
10 you recognize anyone at all, even if they
11 weren't -- were not involved in the
12 shooting?

13 A. I didn't recognize anybody.

14 MR. RAHE: All right. That's all
15 the questions I have. Thank you.

16 THE WITNESS: Okay. Thank you.

17 EXAMINATION

18 BY MR. HAZINSKI:

19 Q. Hi, Mr. Chmielecki; is that right?

20 A. Yes.

21 Q. I also have an often mispronounced
22 Polish last name, so I will do my best to
23 get it right.

24 A. Okay.

1 Q. I am an attorney. My name is
2 John. I represent the plaintiff in this
3 case, who is Geraldo Iglesias, which is a
4 name you have heard a couple of times, okay?

5 A. Okay.

6 Q. And I just want to ask a few quick
7 follow-up questions, and I will try not to
8 take long because I want to be sensitive of
9 your time this morning.

10 A. No problem, sure.

11 Q. Thank you. So before this
12 deposition, you got a subpoena in the mail,
13 or was it hand delivered to you?

14 A. It was hand delivered to me by a
15 detective Mark -- what was his name? Mark
16 Zelky.

17 Q. And when was that?

18 A. I don't remember the exact date.

19 Q. Was it within the last couple of
20 weeks?

21 A. It was further back, yeah.
22 Probably about a month ago, I think. Maybe
23 more, I am not sure.

24 Q. Do you know who issued that

1 subpoena to you for this deposition today?

2 A. No. I have it in my hand. A law
3 firm, Sotos Law Firm.

4 Q. Do you know that Sotos Law Firm is
5 the firm representing the police officer
6 defendants in this case?

7 A. No, I didn't.

8 Q. So did you talk with any attorneys
9 in advance of your deposition?

10 A. No.

11 Q. And we were talking a little bit
12 about you meeting with someone named Oscar.
13 Do you remember talking about that?

14 A. Yes.

15 Q. Oscar got in contact with you and
16 told you that he was working for some
17 lawyers in a case and wanted to ask you
18 questions, right?

19 A. Yes.

20 Q. And I believe you testified that
21 you basically told Oscar the same
22 information that you told us here today; is
23 that fair?

24 A. Exactly, yes.

1 Q. And then eventually, Oscar came
2 back to you with that information written
3 out on a sheet and asked you to look over
4 that; is that fair?

5 A. Yes, yes.

6 Q. When you looked over it, the first
7 time you looked over it, did you see
8 anything in there that you thought was wrong
9 or needed to be changed?

10 A. The first time I looked over it, I
11 just -- no, I didn't see anything that
12 needed to be changed.

13 Q. But you did read through it and
14 just kind of made sure everything was
15 correct, right?

16 A. Yes.

17 Q. And then on another occasion,
18 Oscar came back, and that's when there were
19 corrections made; right?

20 A. Yes.

21 Q. And those were the corrections
22 that were in the handwriting on the document
23 that Mr. Brueggen showed you, right?

24 A. Yes.

1 Q. So I want to kind of go back and
2 ask you a couple of questions about 1993.
3 So you had -- you made a little bit of
4 money, it sounds like, watching Bernice
5 Bullock's son, Steve; is that right?

6 A. Yes.

7 Q. How did you come to start doing
8 that?

9 A. She was a good friend. She would
10 come over to our house a lot, talk with me
11 and my father. She used our phone a lot.
12 And she was just a good friend, you know.
13 And she went out a lot, and she never had
14 any -- she just leaves her son alone all the
15 time. So she'd give me a few bucks, you
16 know, gave me a key, go watch in on him and
17 see if he is okay, and I did that every once
18 in a while, and she would give me some
19 money.

20 Q. Was Steve Bullocks -- you said he
21 had Down's syndrome; right?

22 A. Yes. He had some medical
23 problems, yes.

24 Q. Did he require any special care as

1 a result of that?

2 A. I don't remember. She pretty much
3 just left him in his room all the time.
4 That's what I remember when it came to her
5 son, and he didn't really talk a lot. He
6 just -- he did his own thing, I guess.

7 Q. Around that time in 1993 was he
8 going to school?

9 A. No, he wasn't going to school. He
10 was -- no.

11 Q. Do you know if he went to any kind
12 of programs or anything during the day?

13 A. Yeah, I think she had him going to
14 some kind of program.

15 Q. Do you know how he would get to
16 and from that program?

17 A. I remember a school bus would
18 always pick him up, so I think that's how
19 they did it, yeah. A little school bus
20 would pull up in front of the building.

21 Q. In the current day, are you still
22 in touch with either Bernice Bullocks or
23 Steve Bullocks at all?

24 A. Oh, no, no, definitely not, no.

1 Q. Did you lose contact with them
2 after you moved out of that apartment?

3 A. Yes.

4 Q. So asking now specifically about
5 the day of the shooting incident that we
6 have been talking about, you said you were
7 talking with someone that you think might
8 have been Efrain Torres --

9 A. Yes.

10 Q. -- while you were standing in the
11 doorway of that apartment building; is that
12 right?

13 A. Right, yes.

14 Q. And he remembers it differently,
15 fair?

16 A. Yes, he said it differently, yes.
17 He said, I wasn't talking to you. I am,
18 like, oh, okay. I thought it was you.

19 Q. If you weren't talking to Efrain
20 Torres, do you have any idea who it could
21 have been that you were talking to?

22 A. Oh, man, I know I was talking to
23 somebody. I don't remember. He said it
24 wasn't him, so I don't remember. It must

1 have been someone from the neighborhood. I
2 don't remember. Like I said, that was so
3 far back. Until last year, I completely
4 forgot about this whole thing.

5 Q. Is there anything specific that
6 leads you to believe that it was Efrain and
7 not someone else that you were talking to?
8 Any particular memories that make you say
9 that?

10 A. I thought it was him because we
11 were always hanging out in front of the
12 building. We were always talking, so I
13 figured if I was talking to somebody, I
14 thought it was him. He was my neighbor, and
15 we were always chilling out.

16 Q. Yeah. While you were standing
17 there, you heard gunshots; right?

18 A. Yes. I was standing at the
19 doorway, and I heard the gunshots, yes, yes.

20 Q. Do you know -- do you remember --
21 the person you were talking to, whether it
22 was Efrain or somebody else, do you remember
23 what they did?

24 A. I think they just ran off, I

1 think. I don't remember coming into my
2 apartment after that, so they must have just
3 ran off.

4 Q. You also saw a person wearing a
5 black hoodie with the hood pulled up run by
6 you in front of you?

7 A. Yes, it was so quick, just ran by
8 me and that was it.

9 Q. So that door that you were
10 standing in that we have been talking about,
11 that door is on Sawyer; right?

12 A. Yes.

13 Q. And Sawyer is a north-south
14 street?

15 A. Yes.

16 Q. And so the person ran -- was
17 running -- coming from the north and running
18 south past that doorway; is that right?

19 A. Towards the alley, yes.

20 Q. About how long in total would you
21 estimate you had an opportunity to view that
22 person that was running?

23 A. It was like a second, if even
24 that. It was so quick, so fast.

1 Q. And the hood was up, which
2 prevented you from having a real view of
3 their face; right?

4 A. Yes. It could have been a woman.
5 It could have been a child. I don't
6 remember. It was -- it was so quick.

7 Q. When that person ran by, did you
8 recognize that by their clothes or any other
9 indicators that they were a gang member?

10 A. No, no. It could have been
11 somebody running from gunshots. I don't
12 know who that was.

13 Q. So you don't even know if that
14 person was the shooter?

15 A. No, no, I don't even know if they
16 were the shooter. I don't know who they
17 were.

18 Q. Earlier Mr. Brueggen asked you a
19 question. I want to clarify your answer. I
20 think he asked if you remembered whether
21 Steve, the boy you watched, was around when
22 the shooting happened. Do you remember
23 that?

24 A. No, I -- I definitely -- he

1 definitely wasn't. I give a no on that.

2 Q. How do you remember that
3 specifically?

4 A. I would remember if he was in
5 the -- out there or if he was in the -- out
6 -- if he was by -- I would have remembered
7 if he was there or if he wasn't. That I
8 would have remembered.

9 Q. Would you have remembered like --
10 strike that question.

11 Do you know if he might have
12 been inside of his apartment?

13 A. Yeah, he would have been inside --
14 yes, he would have been inside his
15 apartment.

16 Q. So he could have been in the
17 general vicinity but just not, you know,
18 physically present where you were standing;
19 right?

20 A. Yeah, yeah, he would have been in
21 his room, as usual.

22 Q. Got it. So then you said that a
23 couple police officers came to talk to you
24 pretty soon after the shooting, right?

1 A. Yes. I think they were asking
2 everybody in the building what was going on.
3 And, you know, I just told them that I
4 didn't see anything. I saw the person run
5 by, side profile, a second, who knows who
6 that was.

7 Q. And that first time those police
8 showed up, it was night-time; right?

9 A. Yes, they came at night to come
10 pick me up.

11 Q. But the shooting had happened in
12 the afternoon of one of the days around
13 then, right?

14 A. The afternoon, yes.

15 Q. And you said it was -- you said
16 you don't really remember what they looked
17 like, these cops that came to you?

18 A. No, I completely -- I completely
19 forgot about that.

20 Q. So you don't remember if they were
21 white or black or another ethnicity?

22 A. I know they weren't black. Maybe
23 white or white-Hispanic. It would have to
24 be that, either white or white-Hispanic.

1 Q. There was then also a time after
2 those police left where you were -- where
3 some police came and picked you up and took
4 you to the police station, right?

5 A. Yes.

6 Q. And do you know for sure, one way
7 or the other, whether that was the same
8 night that those cops initially came to
9 visit you or a different night?

10 A. I can't give you 100 percent on
11 this, but it feels to me like it was the
12 same day. It was the same day. I am not
13 100 percent sure on that. Was it the second
14 day? I am not sure, but it feels to me like
15 it was the same day at night.

16 Q. It's possible it could have been a
17 little later, but it's also possible it
18 could have been the same day; right?

19 A. Yes.

20 Q. Now, when those cops first came to
21 talk to you, did you tell them the same
22 thing you have been telling us; namely, you
23 didn't get a view of the person who did it?

24 A. Exactly. I told them the side

1 profile, the ran past, hoodie on the head,
2 didn't see nothing, don't know who they
3 were, but, you know, they still wanted me to
4 go.

5 Q. Yeah. When you say they still
6 wanted you to go --

7 A. Uh-huh.

8 Q. -- are you talking about kind of
9 the first interaction you had with the
10 police that came to see you or a later
11 interaction?

12 A. That was the later one at night
13 when they came to pick me up.

14 Q. The first time the cops came to
15 see you, did they ask you to go to the
16 station or do anything else like that?

17 A. No, no.

18 Q. Do you have any idea why the
19 police wanted you to go look at photos and
20 look at a lineup at that point?

21 A. No, I don't.

22 MR. BRUEGGEN: Objection.
23 Speculation.

24 THE WITNESS: I could never

1 understand why they wanted me to go if I
2 could be no help to them. I couldn't pick
3 anybody out because I didn't see anything,
4 so I never saw the point of going there in
5 the first place.

6 BY MR. HAZINSKI:

7 Q. You told that to them, didn't you?

8 A. Yes, yes.

9 Q. Did you ever tell them that it
10 wasn't going to be helpful for you to go
11 look at photos?

12 A. Yes, I told them I would be no
13 help. But, you know, they wanted me to go,
14 so I went. You know, I wasn't going to
15 argue. So, you know, they said they will
16 bring me back. So I'm like, okay, if you
17 are going to bring me back to my home, all
18 right. I will go. I will help you out. I
19 am not going to be any help. I can't pick
20 anybody, but if you want me to go, I went.

21 Q. Did they tell you why they wanted
22 you to go even though you told them you
23 hadn't seen anything that would be helpful?

24 A. I don't know. They wanted me just

1 to go to look at photos. And again, I
2 didn't see the point to that, but I did it.

3 Q. Have you on any other occasions,
4 not just around this time, but like ever in
5 your life done any kind of looking at photos
6 or looking at lineups as part of a police
7 investigation?

8 A. No. That was the first time.

9 Q. Since then, have you ever done
10 anything like that?

11 A. No.

12 Q. On the occasion where the police
13 brought you to the station; namely, like the
14 second interaction you have been talking
15 about --

16 A. Yes.

17 Q. -- do you remember if those were
18 the same officers or different officers from
19 the ones you initially talked to?

20 A. Man, I can't be a hundred -- I
21 can't recall. I don't remember. I don't
22 want to give you a yes or no if I can't
23 remember.

24 Q. It's possible it could have been

1 the same guys; it's possible it could have
2 different guys?

3 A. It's possible, yes.

4 Q. And you don't remember --
5 similarly with the first guys, you don't
6 remember any specific details about the
7 second set of police officers you interacted
8 with; right?

9 A. No. Like I said, everything just
10 happened. I completely forgot about this
11 whole incident.

12 Q. Fair to say that you don't
13 remember every detail of your interactions
14 with the police that happened all that time
15 ago?

16 MR. BRUEGGEN: Objection. Form.

17 THE WITNESS: All I remember is I
18 was irritated having to go down there, and I
19 knew I wasn't going to be of any help, but
20 they wanted me to go maybe because -- I
21 don't know why they wanted me to go down
22 there. You know, they said they would bring
23 me back, so it would be quick, I guess, so I
24 did it, even though there was no point to

1 it.

2 BY MR. HAZINSKI:

3 Q. You figured it would be better to
4 just cooperate with what they wanted you to
5 do?

6 MR. BRUEGGEN: Objection. Form.

7 THE WITNESS: Yes, I didn't want
8 to argue with the cops so I cooperated, you
9 know.

10 BY MR. HAZINSKI:

11 Q. When the police took you to the
12 station, they brought Efrain as well?

13 A. Yes, he was with me.

14 Q. Was he with you in your apartment
15 when the cops showed up?

16 A. Yeah. He came downstairs because
17 they wanted him to go out there. I don't
18 remember if they called him up or if they
19 went and knocked on his door, and he came
20 down. I forgot how that happened, but I
21 remember he came with me down there to look
22 at the lineup and the pictures, too.

23 Q. Do you remember anything that
24 Efrain said to the police during that

1 interaction?

2 A. No. You'd have to talk to him.

3 Q. And did the two of you ride in the
4 back of the car?

5 A. Yes, we were in the back. We were
6 in the back, yes.

7 Q. Do you remember talking to him or
8 having any kind of conversation with him
9 during that ride?

10 A. No. We were just both looking out
11 the windows, and that was it.

12 Q. I believe you testified you don't
13 remember exactly where the police station
14 was that you went to?

15 A. Yes.

16 Q. Do you remember the general
17 neighborhood it was in?

18 A. It was definitely in the area. I
19 forget the police station. It had to have
20 been the nearest one, but I forget which one
21 it was. I can't recall where it was at.

22 Q. Do you know if it was in or around
23 the neighborhoods of Austin or Galewood on
24 the West Side?

1 A. It was within my area. Jimmy
2 would know that one. It wasn't a long --
3 how long was it? I don't recall being in
4 the car too long, but I can't remember the
5 police station we went to. I can't
6 remember.

7 Q. Do you remember anything about
8 what the police station looked like?

9 A. No. Like I said, I forgot about
10 this incident. It was out of my memory for
11 so long.

12 Q. Okay. While you were at the
13 station, you looked at a thick book of
14 photos; is that right?

15 A. Yes.

16 Q. Do you remember what the pictures
17 of the people -- so let me take a step back.
18 Strike that question.

19 The photos, were they Polaroid
20 photos?

21 A. I think they were -- if they were
22 strictly Polaroid as far as the camera, I
23 don't remember. It was just a bunch of
24 photos. Polaroids, I am sure there were

1 Polaroids in there, yeah.

2 Q. And each photo showed one person,
3 right?

4 A. Yeah, yeah, just some people in
5 there, yeah.

6 Q. Do you remember if there were
7 names written near those photos?

8 A. No, I don't remember names on
9 there. I don't remember any names.

10 Q. Do you know what the -- if the
11 people in those photos all looked similar or
12 all looked different in any way?

13 A. I think you had people too much --
14 people who looked different, a variety of
15 different stuff.

16 Q. Do you remember whether the people
17 in the photos you were looking at were all
18 men?

19 A. Yes, they were all men, yes.

20 Q. Do you remember if they were all
21 Latino?

22 A. Were they all strictly
23 100 percent, I don't recall.

24 Q. Do you remember if any of them

1 were Latino?

2 A. Yes, they were. They were, yeah.

3 Yes.

4 Q. Do you have any idea where those
5 -- so earlier Mr. Brueggen asked you a
6 question about whether you had -- you knew
7 how the pictures came to be in that book,
8 whether they were affiliated with anything.
9 Do you remember that?

10 A. No. They just handed me a book
11 and I looked through the book. That was it.

12 Q. Did they ever tell you it was a
13 photo book of members of a gang?

14 A. I don't recall them saying that
15 specifically.

16 Q. At the time you were looking at
17 it, did you understand it to be a book with
18 pictures of members of a particular gang?

19 A. Yeah. I knew I was looking
20 through a book with criminals in there, so I
21 figured that. That's why he was showing me,
22 you know.

23 Q. So where was Efrain when you were
24 looking at that book?

1 MR. BRUEGGEN: Objection to
2 foundation. If you know?

3 THE WITNESS: I don't remember if
4 he was in the same room with me, or he was
5 in a separate room. He's got a way better
6 memory than me. I can't recall.

7 BY MR. HAZINSKI:

8 Q. Do you know whether he looked at
9 the same book that you looked at?

10 A. I don't recall. You have to ask
11 him.

12 Q. Sorry, just one second. So about
13 how long in total do you think you were
14 looking through the photos in that book?

15 A. Let me think back. Probably,
16 maybe 20 minutes. Because they wanted me to
17 look -- they wanted me to look at it very --
18 you know, not glimpse it real quick. They
19 wanted me to really look at the pictures.
20 So, you know, I looked through it as best as
21 I could and told them I didn't recognize
22 anybody.

23 Q. Who did you tell that to
24 specifically, do you remember?

1 A. I don't remember.

2 Q. So it was a couple officers who
3 had come to your apartment to pick you up
4 and brought you to the station, right?

5 A. Yes.

6 Q. Do you remember if you were
7 dealing with those same people throughout
8 that evening, or if there were different
9 people you were dealing with as well?

10 A. I don't remember if it was the
11 same people from earlier. I don't recall.

12 Q. And after you told them you
13 couldn't pick anybody out of the book
14 because you hadn't seen the person, they
15 asked you to look at a lineup; right?

16 A. Yes.

17 Q. Did they tell you why they wanted
18 you to look at a lineup?

19 A. To see if I recognize anybody, and
20 I told them, how am I going to recognize
21 anybody if I don't recognize anybody from
22 the pictures? I don't recognize the person
23 I saw that ran past me. You know, like I
24 said, I didn't want to argue. There were a

1 bunch of formalities, and I just had to do
2 it anyways. I did. I looked, and I told
3 them, no, I don't recognize anybody.

4 Q. So at that point, from your
5 perspective, you looking at a lineup was
6 pretty pointless; right?

7 A. Yes.

8 Q. And you testified you don't
9 remember if there was an officer in the room
10 with you while you were looking at that
11 lineup, do you?

12 A. I don't remember.

13 Q. There might have been an officer
14 there, but maybe not?

15 A. Exactly. Maybe; maybe not, right.

16 Q. Is it possible there could have
17 been multiple officers?

18 A. It's possible. I don't remember
19 that to be honest with you. It's possible.

20 Q. Earlier you testified that you
21 knew that the cops wanted you to pick
22 someone out of a lineup. What did you mean
23 by that?

24 MR. BRUEGGEN: Objection.

1 Misstates his testimony, but go ahead.

2 THE WITNESS: The point of being
3 there is they, obviously, want me to pick
4 somebody even though I told them I didn't --
5 how am I going to pick somebody? I didn't
6 see a face. They wanted me to look through
7 the photos to pick somebody. They,
8 obviously, wanted me to recall something
9 even though I didn't see anything. They
10 wanted me to pick somebody or recall
11 something maybe I forgot. But I didn't pick
12 anything because I didn't see any face.

13 But they, obviously, wanted me
14 to pick somebody. Like I said, I wasn't too
15 much pressure because I, obviously, didn't
16 pick anybody. But like I said, I was
17 irritated when I went there, and maybe I
18 felt a little bit of pressure, but not that
19 much pressure, but they wanted me to pick
20 somebody.

21 Q. Fair to say that you didn't feel
22 too much pressure to the point where you
23 felt compelled to pick somebody, but you
24 felt some pressure?

1 A. Yes, yes.

2 Q. And you were a little bit
3 irritated during that whole interaction?

4 A. Yes. Like I said, and I was
5 sleeping when they came to pick me up, and I
6 didn't see any point to going down there and
7 looking through things when I would be no
8 help to them.

9 Q. Yeah. And you were pretty -- you
10 told them over and over again that you
11 hadn't seen anything, right?

12 A. Yes.

13 Q. Yeah. But every time you told
14 them that, they still kept asking you to be
15 involved in this process; right?

16 A. Yeah, yeah, like, look through the
17 photo book. Are you sure? Yeah, I'm pretty
18 sure.

19 Q. I believe you testified you don't
20 remember having a conversation with an
21 Assistant State's Attorney after that, but
22 do you know what an Assistant State's
23 Attorney is?

24 A. No.

1 Q. Do you remember ever during the
2 time you were at the police station ever
3 meeting anybody that told you they were a
4 lawyer or a prosecutor?

5 A. I can't give you a yes or no
6 because I don't remember.

7 Q. If there was a police report that
8 documented that you had met for at least a
9 little bit of time with a prosecutor, would
10 you have any reason to dispute that?

11 A. No.

12 Q. Is it fair to say you don't
13 remember every single interaction you had
14 with everybody while you were at the
15 station, right?

16 A. Right. That was so long ago, and
17 after all this time, memory is really weird,
18 you know.

19 Q. So the stuff that you have
20 testified to today in this deposition, you
21 have testified to the best of your memory,
22 and when you haven't been able to remember,
23 you have told us that; is that fair?

24 A. Yes, correct, yes.

1 Q. I appreciate that, and I
2 understand it's a very long time ago, so I
3 appreciate that. One quick second here.

4 So you ended up signing a
5 declaration that Oscar brought to you,
6 right?

7 A. The officer?

8 Q. That Oscar brought to you.

9 A. Oh, Oscar, yes, yes.

10 Q. And Oscar had been pretty
11 persistent in trying to get ahold of you,
12 right?

13 A. Oh, yeah, yeah.

14 Q. And it was starting to get a
15 little irritating; is that fair?

16 A. Yes, yes.

17 Q. Did Oscar ever promise you
18 anything in exchange for talking to him?

19 A. No, no. He said he worked for some
20 charity something, some charity, or
21 whatever, some foundation or something.

22 Q. Do you remember if he told you he
23 worked for lawyers?

24 A. I don't remember him saying that.

1 Q. I believe you testified earlier
2 during your deposition that he stated he was
3 working for lawyers. Do you remember giving
4 that testimony?

5 A. Let me think, let me think. Wait
6 a second. When he was on the phone with --
7 that was listening in, yeah, yeah, yeah, he
8 said that was a lawyer that was listening
9 into our conversation on the phone, yeah,
10 okay, yeah.

11 Q. Do you remember whether he told
12 you the lawyer represented Geraldo Iglesias?

13 A. I think he said he did, yes, yes.

14 Q. Do you remember who that lawyer
15 was that you talked to?

16 A. No.

17 Q. Did you ever -- did you ever hide
18 anything or conceal anything that you know
19 about this incident from Oscar when you were
20 talking to him?

21 A. No. I did the best I could. I
22 told him everything I saw. I didn't even
23 know why he was at my place to begin with.
24 I didn't even know why I am out here. I saw

1 nothing. It's like, I don't know what help
2 I would be to Oscar when I didn't see
3 anything. But still, you know, he wanted to
4 know what I saw.

5 Q. And you told him what you knew so
6 that he would stop talking to you?

7 A. Yeah, exactly.

8 Q. But what you told him was the
9 truth, right?

10 A. Oh, yes, it was the truth, yes.

11 Q. He didn't threaten you or
12 anything?

13 A. Oh, no, no, no.

14 MR. HAZINSKI: All right. I don't
15 have any questions -- any more questions for
16 you, Mr. Chmielewski. Thank you.

17 THE WITNESS: Okay. Thank you.

18 MR. BRUEGGEN: Mr. Chmielewski, I
19 just have a couple quick in follow-up.

20 THE WITNESS: Sure.

21 FURTHER EXAMINATION

22 BY MR. BRUEGGEN:

23 Q. Very brief. Earlier when you were
24 asked a question about what police station

1 you went to, I thought you said Jimmy would
2 know that. Did I mishear you? Did you say
3 Jimmy?

4 A. Yes, Jimmy would have known that.

5 Q. Who is Jimmy?

6 A. We call him Jimmy. Efrain,
7 Efrain, sorry. We call him Jimmy. Yeah.
8 He likes to be called Jimmy instead of
9 Efrain.

10 Q. When you were being questioned by
11 the police, were you aware that there had
12 been a woman that had been murdered in the
13 shooting that you had heard?

14 A. I heard that a woman was shot. I
15 don't remember if she was murdered or not.

16 Q. You said the police were basically
17 trying to exhaust your memory whether you
18 had any --

19 A. Yes.

20 Q. -- recollection?

21 A. Yes, yes.

22 Q. And just making attempts to show
23 you things to see if it sparked a memory --

24 A. Yes.

1 Q. -- of your recollection?

2 A. Yes.

3 Q. And I know it was annoying that
4 they kept doing the same thing, right,
5 that's what you told us?

6 A. Yes.

7 Q. And you talked briefly about Steve
8 who you watched?

9 A. Yes.

10 Q. Would you ever spend time in his
11 apartment, or did you just pop in and check
12 on him?

13 A. I always popped in and checked up
14 on him if he was all right.

15 Q. When you spoke to Oscar about that
16 declaration, did he tell you or did the
17 attorney who was listening tell you why they
18 wanted that declaration?

19 A. They just told me they wanted to
20 get my point of view of what I saw. That
21 was pretty much it. They wanted to know
22 what I saw, and that was it. They just
23 wanted to hear my version.

24 Q. Did Oscar or the attorney focus on

1 whether the police officers had pressured
2 you or --

3 A. Yes, a little bit, yes.

4 Q. And again, I think you told us
5 that you felt pressure, but it was just the
6 pressure to keep looking at things?

7 A. Yeah, it was mainly irritation,
8 yeah.

9 Q. If I keep going, you might have
10 irritation towards me?

11 A. No, you're good. You're good.

12 Q. After you signed that declaration,
13 did Oscar stop coming by?

14 A. Yes, he just came by a second time
15 to correct it.

16 Q. And after that, any contact with
17 Oscar?

18 A. No. I told him I was done. That
19 was it.

20 Q. Did Oscar tell you that would be
21 the end of it? If you signed a declaration,
22 there wouldn't be any more contact in the
23 case?

24 A. Yeah, he said we were finished.

1 He wouldn't bother me any more. We're done.

2 MR. BRUEGGEN: Mr. Chmielecki,
3 those are all the questions I had in
4 follow-up. I don't know if Austin has
5 anything.

6 MR. RAHE: I have no follow-up.

7 MR. BRUEGGEN: I take it, Kevin
8 has no follow-up.

9 John, do you have anything?

10 MR. ZIBOLSKI: No, I'm good.

11 MR. HAZINSKI: No.

12 BY MR. BRUEGGEN:

13 Q. Mr. Chmielecki, you are done, but
14 there is one last thing I have to do.

15 A. Sure.

16 Q. I have to explain something called
17 signature. As I mentioned, the court
18 reporter has typed up everything that's been
19 said, so there will be a transcript of your
20 questions and answers. And as the witness,
21 you have the right to review that --

22 A. Okay.

23 Q. -- to make sure that she has
24 written down everything correctly. You

1 can't change any of your answers. You can't
2 change a "yes" to a "no" or a "no" to a
3 "yes" or add to an answer. But you can
4 change if she misheard you or mistranscribed
5 things, you can change that. That's an
6 option you have, and you can reserve
7 signature, which means once this is typed
8 up, you'd have to coordinate with the court
9 reporter to go review a copy. You would
10 review it, make any changes like that where
11 she misheard you.

12 A. Okay.

13 Q. The other option is you can waive
14 signature and just trust the court reporter
15 wrote down everything that we said
16 correctly, but the option is yours, if you
17 want to reserve and go have to review it, or
18 whether you want to waive it.

19 A. I trust the court reporter.

20 MR. BRUEGGEN: Let the record
21 reflect signature is waived. That is it,
22 Mr. Chmielewski. Thank you very much for
23 your time. We appreciate it.

24 THE WITNESS: All right. Thank

1 you. Have a good day.

2 THE VIDEOGRAPHER: This concludes
3 the deposition. Going off the video record
4 at 11:27 at the end of Media Unit No. 1.

5

6

7 (Deposition proceedings
8 concluded at 11:27 a.m.)

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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF DU PAGE)

4 I, MARIBETH REILLY, a notary public
5 within and for the County of DuPage and
6 State of Illinois, do hereby certify that
7 heretofore, to-wit, on April 27, 2021,
8 remotely appeared before me via Zoom, DAVID
9 CHMIELESKI, in a cause now pending and
10 undetermined in the United District Court,
11 Northern District of Illinois, Eastern
12 Division, wherein GERALDO IGLESIAS is the
13 Plaintiff, and REYNALDO GUEVARA, ET AL are
14 the Defendants.

15 I further certify that the said DAVID
16 CHMIELESKI was first duly sworn to testify
17 the truth, the whole truth and nothing but
18 the truth in the cause aforesaid; that the
19 testimony then given by said witness was
20 reported stenographically by me in the
21 remote presence of the said witness, and
22 afterwards reduced to typewriting by
23 Computer-Aided Transcription, and the
24 foregoing is a true and correct transcript
of the testimony so given by said witness as

1 aforesaid.

2 I further certify that the signature
3 to the foregoing deposition was waived by
4 the witness for the respective parties.

5 I further certify that the taking of
6 this deposition was pursuant to subpoena and
7 that there were present at the deposition
8 the attorneys hereinbefore mentioned.

9 I further certify that I am not
10 counsel for nor in any way related to the
11 parties to this suit, nor am I in any way
12 interested in the outcome thereof.

13 IN TESTIMONY WHEREOF: I have hereunto
14 set my hand and affixed my notarial seal
15 this 10th day of May, 2021.

16

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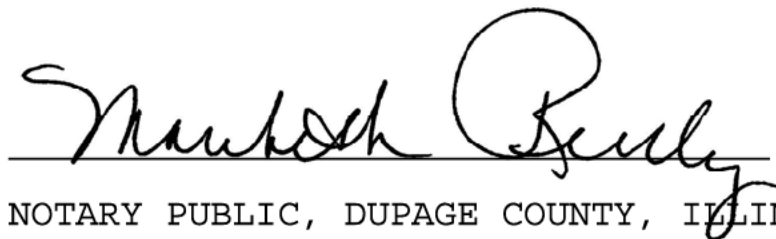
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NOTARY PUBLIC, DUPAGE COUNTY, ILLINOIS
LIC. NO. 084-002306

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Iglesias v. Guevara, et al.,
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EXHIBIT 33

CASE NO. 1:19-CV-6505

GERALDO IGLESIAS

V.

REYNALDO GUEVARA, ET AL.

DEPONENT:

ROBERT BIEBEL

DATE:

October 29, 2021

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 HON. FRANKLIN U. VALDERRAMA,
5 DISTRICT JUDGE

6 HON. MARIA VALDEZ,
7 MAGISTRATE JUDGE

8 CASE NO. 1:19-CV-6505
9

10 GERALDO IGLESIAS,
11 Plaintiff

12
13 V.
14

15 REYNALDO GUEVARA, ET AL.,
16 Defendants
17
18
19
20
21
22

23 DEPONENT: ROBERT BIEBEL

24 DATE: OCTOBER 29, 2021

25 REPORTER: SUSAN L. HARRILL (BELL)

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The VIDEO deposition of ROBERT BIEBEL was taken
KENTUCKIANA COURT REPORTERS, 30 SOUTH WACKER STREET,
22ND FLOOR, CHICAGO, ILLINOIS 60606, via videoconference
in which all participants attended remotely, FRIDAY the
29TH day of OCTOBER 2021 at 10:01 a.m.; said VIDEO
deposition was taken pursuant to the FEDERAL Rules of
Civil Procedure. The oath in this matter was sworn
remotely pursuant to FRCP 30.

It is agreed that SUSAN L. HARRILL (BELL), being a
Notary Public and Court Reporter for the State of
ILLINOIS, may swear the witness and that the reading and
signing of the completed transcript by the witness is
not waived.

PROCEEDINGS

COURT REPORTER: We are now on the record.

My name is Laurin Harrill. I'm the video technician and court reporter today. Today is the 29th day of October, 2021. The time is 10:01 a.m.

We are convened by videoconference to take the deposition of Robert Biebel in the matter of Geraldo Iglesias v. Reynaldo Guevara, Et Al, pending in the United States District Court for the Northern District of Illinois, Eastern Division, case number 1:19-CV-6508. Will Counsel please state your appearance, how you're attending, and the location you're attending from, starting with the Plaintiff's Counsel?

MR. HAZINSKI: This is John Hazinski for the Plaintiff, Geraldo Iglesias, appearing remotely via Zoom from Chicago.

MR. BRUEGGEN: I'm Dave Brueggen, appearing on behalf of Deponent Robert Biebel, and defendants Gawrys, Riccio, and Halvorsen, and we are appearing remotely from my desk via Zoom.

COURT REPORTER: We're having a little trouble hearing you, or at least on my end. Could you restate that? I'm sorry.

MR. BRUEGGEN: I'm sorry. I will be louder,

1 I'm sorry. We're just using the one computer
2 today. We use the one computer, so we don't get
3 the feedback. If we need to call in, we can call
4 in and use the cell phone. That might work better.

5 So Dave Brueggen on behalf of the deponent,
6 Bob Biebel, Defendant, and on behalf of defendants
7 Gawrys, Riccio, and Halvorsen, appearing from my desk in
8 Illinois.

9 MS. BARBER: This is Katherine Barber for
10 Defendant, City of Chicago, appearing remotely from
11 Chicago.

12 MS. MCGRATH: Megan McGrath for Defendant,
13 Guevara, appearing remotely from Chicago.

14 COURT REPORTER: Thank you. And do all
15 parties stipulate that you're in agreement that the
16 witness is who he says he is?

17 MR. HAZINSKI: Yes.

18 MS. BARBER: Yes.

19 MR. BRUEGGEN: Yes.

20 MS. MCGRATH: Yes.

21 COURT REPORTER: Thank you. And I just had an
22 Isabella join us in the waiting room. Are we
23 expecting anyone else?

24 MR. HAZINSKI: Isabella is representing the
25 Plaintiff. She'll be observing this deposition.

1 She can be in.

2 COURT REPORTER: Okay, perfect. I'll admit
3 her. Great. And Mr. Biebel, will you please raise
4 your right hand? Do you solemnly swear or affirm
5 that the testimony you're about to give will be the
6 truth, the whole truth, and nothing but the truth?

7 THE WITNESS: Yes.

8 COURT REPORTER: Thank you. You may begin.

9 DIRECT EXAMINATION

10 BY MR. HAZINSKI:

11 Q Thank you. Good morning, Mr. Biebel.

12 Could you please state and spell your name for
13 the record?

14 A Robert Biebel, B-I-E-B-E-L.

15 Q Thank you. Mr. Biebel, have you ever been
16 deposed before?

17 A Yes.

18 Q How many times?

19 A Four, I believe.

20 Q When was the most recent time?

21 A Approximately a year ago.

22 Q You recall what case that was in?

23 A No.

24 Q Okay. So you have some experience in
25 depositions, but I'm going to go over some basic ground

1 rules to help things go smoothly, especially since we're
2 using this remote Zoom platform. As you can tell,
3 there's a court reporter here taking down everything we
4 say, so it's important that we try to speak one at a
5 time. I'll do my best to let you finish answering a
6 question before I ask another one. And I would ask that
7 you try to let me finish asking a question before you
8 start giving an answer; is that fair?

9 A Yes.

10 Q Thank you. If you don't understand a question
11 that I ask, whether it's because it's a confusing
12 question or because there's an issue with the technology
13 or the audio, please ask me to repeat the question or to
14 rephrase it and I'm happy to do that so that everything
15 is clear. If you do answer the question, I'll assume
16 that you understood it, okay? And I'm sorry, I'm
17 wondering if maybe I have an audio issue on my end.

18 Did you say something?

19 A Are you talking to me? Yes.

20 Q Yes. Thank you. You're welcome to take
21 breaks whenever you want, for any reason, if you need to
22 use the restroom or anything like that. I just ask that
23 you not ask to take a break while I still have a
24 question to you pending; is that fair?

25 A Yes.

1 Q Thank you. Mr. Biebel, do you have any
2 medical issues or are you taking any medications that
3 affect your memory?

4 A No.

5 Q Okay. What did you do to prepare for this
6 deposition today?

7 A I met with my attorneys.

8 Q And is Mr. Brueggen your attorney?

9 A Yes.

10 Q How many times did you meet with your
11 attorneys?

12 A Three. My best guess is three.

13 Q Okay. And when was the first time you met
14 with them to prepare for this deposition?

15 A I don't remember exactly when that was.

16 Q Was it within the last month, would you say?

17 A It's twice in the last month, yes.

18 Q Okay. And about how long were each of your
19 meetings with your attorneys to prepare for this
20 deposition?

21 A My guess is three hours each.

22 Q Other than your attorneys, did you meet with
23 anybody else to prepare for this deposition?

24 A No.

25 Q Did you review any documents to prepare?

1 A Yes.

2 Q What documents did you review?

3 A The case files.

4 Q Okay. And what kind of documents were in the
5 case files?

6 A Police reports, which is what I remember
7 looking at.

8 Q Okay. Did you review any transcripts
9 testimony?

10 A No.

11 Q Did you review any photographs?

12 A No.

13 Q Did you review any video or audio recordings
14 of any kind?

15 A No.

16 Q Okay. So other than your attorneys, have you
17 met with or talked to anybody else at all about your
18 deposition today?

19 A No.

20 Q Okay. Mr. Biebel, are you currently employed?

21 A No.

22 Q Okay. Are you retired?

23 A Yes.

24 Q How long have you been retired?

25 A More than 10 years.

1 Q What was your last job before you retired?

2 A I was a Police Lieutenant, Chicago Police
3 Department.

4 Q Could you briefly describe your career in the
5 Chicago Police Department?

6 A I was hired 1972, worked in a Patrol Division
7 as a police officer till 1981. I was promoted to
8 Sergeant in 1981. I was a Sergeant until 1998. I was
9 promoted Lieutenant.

10 Q What was your assignment or your detail when
11 you were in the Patrol Division?

12 A My initial assignment was the 20th Police
13 District.

14 Q Did you have any other assignments in the
15 Patrol Division?

16 A As a police officer, no.

17 Q Okay. And then when you became a Sergeant in
18 '81, did you stay in the 20th District?

19 A No, I was assigned to the 24th District.

20 Q Okay. And how long did you stay there?

21 A Approx -- about a year.

22 Q Okay. And where'd you go after that?

23 A I was just -- I was transferred to the Gang
24 Crimes North Unit.

25 Q Okay. As a Sergeant in the Gang Crimes North

1 Unit, what were your responsibilities?

2 A I supervised gang specialists.

3 Q Okay. And what did supervising gang
4 specialists involve on a day-to-day basis?

5 A Look -- follow-up gang-related cases that may
6 have happened. Reviewing intelligence that they
7 gathered.

8 Q In -- as a Gang Crimes Sergeant, were you
9 responsible for reviewing reports?

10 A When reports came through, I -- I -- I
11 reviewed them, yes.

12 Q Okay. How long were you a Sergeant in Gang
13 Crimes North?

14 A I was assigned in 1982 and left in 1988.

15 Q Okay. And where did you go after that?

16 A I went to the Wood Street District, District
17 13.

18 Q Okay. And how long were you at District 13?

19 A Approximately three months.

20 Q Okay. And where'd you go after that?

21 A Area 5 Violent Crimes.

22 Q Why did you leave Gang Crimes North to go to
23 District 13?

24 A I would -- I was transferred out of there.

25 Q Okay. Was there any particular reason you

1 were transferred out?

2 MR. BRUEGGEN: Object to form. Go ahead.

3 A I act -- I don't know why.

4 Q Okay. Did any of your superior officers give
5 you any explanation for why you were being transferred
6 at any point?

7 A No.

8 Q Okay. And when you left District 13 to go to
9 Area 5, why did you leave District 13?

10 A I was transferred.

11 Q Okay. And similarly that time, did you get
12 any explanation about why you were being transferred?

13 A I -- I was requested by Commander Fruin.

14 Q Okay. And who was Commander Fruin?

15 A He was the commander of Area 5 detectives.

16 Q Would you mind just spelling his name for the
17 record, please?

18 A F as in Frank, R-U-I-N.

19 Q Thank you. Okay. And how long were you at
20 Area 5?

21 A December 1988 to November 9 -- 1998.

22 Q And then in '98, you became a lieutenant; is
23 that right?

24 A Yes.

25 Q Okay. And where were you assigned when you

1 became a Lieutenant?

2 A Foster Avenue, District -- 20th District.

3 Q What were your responsibilities as a

4 Lieutenant at the Foster Avenue District?

5 A I was the field lieutenant.

6 Q What did a field lieutenant do?

7 A He supervised the street officers.

8 Q So when you became a sergeant in 1981, did you

9 receive additional training at that point?

10 A Yes.

11 Q Okay. And what did that training involve?

12 A I don't recall.

13 Q Do you recall if it was classroom training?

14 A Yes.

15 Q Do you recall who provided that training?

16 A Training Division, the Chicago Police

17 Department.

18 Q Okay. Do you recall if it was training that

19 was specifically for sergeants?

20 A Yes.

21 Q Okay. Do you recall how long that training

22 lasted?

23 A I believe it was a month, I'm not real sure.

24 Q Okay. And, similarly, when you were promoted

25 to Lieutenant, was there additional training at that

1 point?

2 A Yes.

3 Q Okay. Do you recall what that training was
4 about?

5 A The duties of the field lieutenants under
6 Lieutenants Field Lieutenants, yes.

7 Q Okay. Could you describe how the duties of a
8 field lieutenant differ from the details -- the duties
9 of a sergeant?

10 A The sergeants are under the command of the
11 lieutenant.

12 Q Okay. So on a day-to-day basis, how did your
13 work change when you went from -- other than being
14 assigned to a different location, in terms of your
15 supervisory tasks, how did your work change when you
16 went from being a sergeant to a lieutenant?

17 MR. BRUEGGEN: Object to form. Go ahead.

18 COURT REPORTER: I'm sorry, was that an
19 objection?

20 MR. BRUEGGEN: Object to form. If you have
21 difficulty hearing me, I'll do --

22 MR. HAZINSKI: Yeah, we can't hear your audio,
23 like, at all.

24 MR. BRUEGGEN: Okay. Soon, I will come with
25 something. If you can't hear, have a better angle

from the mic.

THE WITNESS: Go ahead. Is there a question sitting on my platter here?

BY MR. HAZINSKI:

Q I was just hoping you could explain how your responsibilities changed from when you were a sergeant to when you became a lieutenant.

A In general, I became a lieutenant, I was then supervising sergeants and -- and -- and the street -- street officers.

Q Okay.

A Just --

Q Did you -- as a lieutenant, did you have less direct dealings with the street officers?

MR. BRUEGGEN: Object to form. Go ahead, sir.

A All right. I -- I saw my street officers every day.

Q Okay. And I want to ask a little more about your time at Gang Crimes North. You said that was '82 through '88, correct?

A Yes.

Q Okay. And you said one of your responsibilities as a sergeant there was to follow up on gang-related cases, right?

A That wasn't my job, it was the job of the

1 officers.

2 Q Okay. Was one of your responsibilities as
3 sergeant, I believe, you said it was reviewing
4 intelligence?

5 A Yeah. One of the duties of the Gang Crime
6 Specialist was to keep intelligence on every gang that
7 was assigned to that area that we were working.

8 Q Okay. So as a sergeant, were you involved in
9 that intelligence gathering at all?

10 A No.

11 Q Okay. Were you responsible for keeping track
12 of any information about the gangs?

13 MR. BRUEGGEN: Object to form.

14 A I would read the report submitted by the
15 Gang Crime Specialist as to the particular gang that
16 they were assigned on.

17 Q Okay. So other than reading the reports that
18 the officers submitted, what were your other
19 responsibilities as a Gang Crime Sergeant?

20 A To supervise them on while -- while they're
21 working.

22 Q Okay. And so specifically, what tasks did you
23 perform while supervising those officers?

24 A To make sure they came to work every day, and
25 from time to time would inquire to about what -- what

1 they were doing for their watch or while they were
2 working in the watch.

3 Q Okay. Other than reading reports, making sure
4 that the officers came to work and occasionally
5 inquiring about some of their work, did you have any
6 other responsibilities as a sergeant in gang crimes?

7 A I don't -- I don't remember.

8 Q Okay. Was Officer Rey Guevara assigned to
9 Gang Crimes North while you were a sergeant there?

10 A Yes.

11 Q And Mr. Biebel, I understand your attorney,
12 Mr. Brueggen, is in the room with you, correct?

13 A Yes.

14 Q Is anybody else there currently?

15 A No.

16 Q Okay. Thanks. So in total, you spent
17 approximately almost 40 years at the CPD, right?

18 A Yes.

19 Q Okay. During that time, did you have any
20 complaints filed against you?

21 A I -- I only remember one.

22 Q Okay. And what's that one you remember?

23 A Was a civil case involving Davey Frost.

24 Q When was that about?

25 A I don't know exactly the year.

1 Maybe '89, 1990, something of that nature.

2 Q Okay. And that was when you were already at
3 Area 5, correct?

4 A Yes.

5 Q Do you recall what the allegations were in
6 that complaint?

7 A Verbal abuse.

8 Q Were you the person who was alleged to have
9 done the verbal abuse?

10 A No.

11 Q Who was the person alleged?

12 A Detective Brennan.

13 Q Do you recall what the result of that
14 complaint was?

15 A I believe mine was unfounded.

16 Q Did you ever receive any form of discipline
17 from the Department during your career?

18 A No.

19 Q So I want to focus specifically on your time
20 at Area 5, as it pertains to this case, and even more
21 specifically in the period around 1993. So in that
22 period of time, could you describe the chain of command
23 at Area 5?

24 A I don't remember who was working there at that
25 time. There was a commander. We have a lieutenant,

1 numerous sergeants, and detectives.

2 Q Do you recall who any of the other sergeants

3 --

4 A Excuse me? I didn't hear you. I didn't hear

5 the question.

6 Q Sorry, it sounded like there was some kind of

7 audio interference. I'm not sure.

8 A Right.

9 Q Let me ask it again. Do you recall who any of

10 the other sergeants were at Area 5 in 1993?

11 A Sergeant Mingey was working there at the time.

12 Q Besides Mingey, do you remember any others?

13 A I can't remember, you know, because I was

14 there for so long. Sometimes they -- some stayed for a

15 while, some didn't. So Sergeant Mingey, I -- I know of,

16 and Lee Epplen was there, I believe, at the time, too.

17 Q Okay. And so your direct report at that time

18 was to a lieutenant in Area 5?

19 A Yes.

20 Q Okay. You -- do you -- you don't recall who

21 that person was in '93?

22 A In reviewing reports earlier, I -- I remember

23 seeing John Farrell's name in there.

24 Q Okay. And could you spell that, please?

25 A F-A-R-R-E-L-L.

1 Q Okay, thank you. And the lieutenant was
2 responsible for supervising all of the sergeants,
3 correct?

4 A Yes.

5 Q Okay. I want to ask you a little bit about
6 your responsibilities as a sergeant in Area 5.

7 Again, still focusing on 1993. So was one of
8 your responsibilities to supervise homicide
9 investigations?

10 A Yes.

11 Q Okay. And what did that involve?

12 A Reviewing reports, interviewing or debriefing
13 the detectives assigned to -- to the status of their
14 homicides, and what to go further with, if -- if need
15 be.

16 Q You say briefing with the detectives; what do
17 you mean?

18 A Well, everyday roll call. We would take roll
19 and each detective would tell us cases that they're
20 working. We had specific detectives assigned to
21 homicides and then we had the other matters that
22 Area 5 Violent Crimes dealt with. And during roll call,
23 they would speak of the cases that they're working about
24 and -- and -- and -- and the status of the case at that
25 time.

1 Q Okay. And would that roll call happen at the
2 start of each shift?

3 A Yes.

4 Q Okay. Do you remember what shift you worked
5 in 1993?

6 A I worked the day watch.

7 Q What were the hours of the day watch?

8 A 7:00 to 3:00, 3:30 or so.

9 Q Okay. And so during the roll call when
10 detectives would talk about their cases, what kind of
11 information would they share?

12 A If there was a case, in general, they would
13 say if they're looking for anybody, what -- what has to
14 be done, if they need any help canvassing, given -- given
15 specific information of maybe of a car wanted, area
16 where it happened, that kind of stuff that they would
17 talk about.

18 Q Okay. So when you mem -- earlier when you
19 mentioned debriefing with detectives, did that only just
20 happen during the roll call or did that happen at other
21 times, too?

22 A It was usually only at roll call.

23 It's usually there on the street.

24 Q Okay. Oh, you said on the street?

25 A Well, they're field detectives, so they would

1 go out on -- it's just term that we use is when they're
2 out on the street, working.

3 Q Oh, okay. The actual physical roll call would
4 happen in the office at Area 5?

5 A Right, yes.

6 Q Thank you, just wanted to clarify that.

7 So other than reviewing reports and holding
8 these roll calls with detectives, did you have other
9 responsibilities when you were supervising homicide
10 investigations at Area 5?

11 A Well, homicide -- I -- I supervised all
12 investigations on Area 5, including rape cases, robbery
13 cases, aggravated battery cases, shooting cases, theft
14 battery cases, phone call cases. You know, that was,
15 like, the realm that we have there, you know, and I --
16 and every day I would come in to find out who my
17 detectives that were working at specific day, and
18 determine my manpower status for that watch. So I was
19 supervising anything that came in about stuff that might
20 be what we call fresh, something that just occurred, and
21 determine whether we should do an immediate follow-up on
22 it. Or, if I had somebody in custody, in an ar -- in a
23 district that needed felony review and they were seeking
24 felony charges, I would get detectives to go out and
25 talk to them on that, to be assigned to this case for

1 review. You know, if we had people in the hospital, we
2 had dead cases where people might be naturally dead, we
3 might send them out. Those are the various things I
4 had. I dealt with the news media. I dealt with
5 downtown, calling about whatever active cases we might
6 have or maybe newsworthy cases.

7 Q Okay. So just so that make sure I understood
8 because you just gave me a lot of information. I want
9 to make sure I understood all of it. So one of your
10 responsibilities would be dealing with the news media
11 and it -- was that, like, responding to media inquiries?

12 A Yes.

13 Q Okay. Did detectives ever directly respond to
14 media inquiries, or did it have to go through you?

15 A I don't recall detectives doing it, but that
16 doesn't say they didn't, you know?

17 Q Okay. And you were also -- I think you said
18 you were responsible for assigning detectives to cases,
19 right?

20 A Yes.

21 Q Okay. And you would do that when there was a
22 fresh case; is that right?

23 A Yes.

24 Q Okay. How did you decide which detectives to
25 assign to a particular case?

1 A First, I have to decide who is working right
2 now. See, I -- to clarify that, there's -- there's two
3 different processes for assigning cases. Current cases
4 that came over the telephone that needed responsibility
5 was my decision to send it to. They went to what we
6 call case management in the back. They would assign the
7 Court cases that have been reported, but we never
8 followed up on it on the front end. So to get back to
9 that, if a case came through, I'd have to see what my
10 manpower was at that time. Because on the day watch, I
11 had people that were in court all the time. I had
12 people that are working cases, maybe in the district.

13 So that's when I would decide who would be his
14 response -- who would get the case, case that came
15 through.

16 Q Okay. When you were making decisions about
17 who to assign to particular cases, did you consider, for
18 example, whether particular detectives had better skills
19 or expertise that would be suited to that case?

20 A Well, there was -- in 1993, I don't remember
21 if there -- we -- we used to have, like, specific teams
22 that were dead -- specific cases. We had rape -- rape
23 specialists. We had phone specialists and we had guys
24 who were assigned to strictly serious -- serious
25 batteries and gunshots and homicides.

1 Q Okay. So I guess, I'll ask a narrower
2 question then. So when you were -- when a homicide came
3 -- homicide case came in and you had to assign
4 detectives to work on the homicide case, in deciding who
5 to assign, did you consider whether particular
6 detectives had better skills or expertise in picking who
7 you were going to assign?

8 A If they're one of our designated homicide
9 teams, I would send them.

10 Q Okay. Was there ever a situation where there
11 were multiple homicide teams you could have assigned,
12 and you had to decide which of them would be better
13 suited to a particular case?

14 A Yes.

15 Q Okay. And how did you make that decision?

16 A A lot of times, it depended on where -- where
17 -- where it occurred. It occurred -- we had, like, five
18 districts or six districts in those days. You go back
19 and -- to -- to the teams where they came from, I sort
20 of knew who -- where they were assigned before they
21 became detectives.

22 Q And why was it helpful to know where they were
23 assigned before they were detectives?

24 A Because they -- they were familiar with the --
25 the people in the district normally, yes.

1 Q Okay. So in your role as a supervisor in
2 Area 5 in 1993, were you actively involved in
3 investigating, personally, these cases?

4 A I did not --

5 MR. BRUEGGEN: Object to form.

6 A Oh, I'm sorry. I did not investigate any
7 cases that I remember.

8 Q Okay. So for example, as a sergeant, did you
9 ever interview witnesses?

10 A No.

11 Q Okay. As a sergeant, did you ever help
12 conduct eyewitness identification procedures?

13 A No.

14 Q Did you ever help conduct interrogations?

15 A No.

16 Q Did you participate in decisions about whether
17 to contact felony review?

18 A No.

19 Q Okay. In other words, the decision about
20 whether to contact felony review was within the purview
21 of the detectives?

22 A Yes.

23 Q Okay. Now, when -- for example, when
24 detectives were taking investigative steps such as
25 interrogating a witness or a suspect, while they were in

1 that process, would they consult with you about how it
2 was going?

3 A From time to time, they may have, yes.

4 Q Okay. Do you ever remember that specifically
5 happening?

6 A No.

7 Q Okay. Did detectives ever come to you for
8 advice because they were stuck in an investigation and
9 didn't know how to proceed?

10 A No.

11 Q Okay. Would it be fair to say that you didn't
12 -- it was not one of your responsibilities to make sure
13 that these cases got solved?

14 A To make sure they got solved? No, I -- it
15 wasn't my responsibility. That it -- that an honest
16 investigation went through and they -- they covered --
17 tried -- tried to cover all the bases that left no --
18 nothing hanging. So if it got called, you know, to --
19 to -- to review the files from time to time to see if an
20 -- an -- anything go forward.

21 Q Okay. So it was one of your responsibilities
22 to make sure that the detectives were diligently
23 investigating their cases, right?

24 MR. BRUEGGEN: Object to form.

25 A I don't know -- understand what diligently

1 means in your - in -- in your perspective, sir.

2 Q Well, I was just trying to characterize what
3 you had just said and if I mischaracterized it, I didn't
4 mean to. But it sounded like one of your jobs was to
5 make sure that leads were followed up on, for example?

6 A Right. And it would be through the debriefing
7 process that we had at roll call in the morning or, in
8 -- in my case, in the morning. And if -- if they need
9 any assistance to go forward with it, you know?

10 Q Okay. So what kind of assistance are you
11 referring to?

12 A If they -- well, someone needs to cover a
13 hospital, an event that somebody's seriously injured
14 while they're on the scene of a thing, or go down to the
15 ME's office and be present for the posts, those are the
16 kind of things that we did for the assistance on that.

17 Q Okay. Do you recall any instances in which
18 you discovered that detectives that you supervised had
19 failed to follow up on leads that you believe they
20 should have followed up on?

21 A No, not that I recall.

22 Q Okay. And you said you were responsible for
23 reviewing cases after they went cold, right?

24 A From time to time, I would -- I would have to
25 submit a report on cases that were old, yes. So I would

1 have to pick up the file and review the file.

2 Q Okay. And so how did you keep track of which
3 cases hadn't been solved yet?

4 A We had a file system that had open cases and
5 closed cases.

6 Q Can you describe that file system, briefly?

7 A I believe there were five-drawer file cases,
8 metal with drawers in them, and the cases -- that's
9 where the homicide cases were put in. And we had a
10 board that we could look to see what cases were still
11 open by month, and I could review that board, and then
12 go into the file and do it that way, so --

13 Q Okay. And you said after a certain period of
14 time, you -- if a case was still unsolved, you'd have to
15 look it over; is that right?

16 A Well, the boss would always look for -- for
17 his meetings. We would have to review the open cases
18 and do a status report via communications with the
19 commander.

20 Q Okay. And when you say the boss, is that the
21 commander?

22 A Yes. I'm sorry, the commander.

23 Q No, that's okay. About how often would you
24 have those meetings around this time, in 1993?

25 A I don't remember.

1 Q Okay. Was it more than once a year?

2 A I believe so, yes.

3 Q Was it once a month?

4 A Well, it -- it depends on what kind of

5 meetings the boss was going to. Like, I -- for example,

6 he would come in, "I got a meeting in the 15th District.

7 Give me a rundown on -- on open cases from a specific

8 period of time." I would go in and write a summary of

9 the open cases, you know.

10 Q Now, when you prepared summaries of open

11 cases, did you do that just based on the paper, or did

12 you also talk to the detectives who were involved?

13 A No. Normally just -- I opened up the file and

14 reviewed the file.

15 Q Got it. Do you recall ever having to follow

16 up with any of the detectives as part of that review

17 process to get more information about what had happened

18 in the investigation?

19 A I don't remember doing that, no.

20 Q Okay. And so in the meetings with the

21 commander where you would discuss open cases, what kind

22 information would you provide about them?

23 A From what the -- from what the file says, you

24 -- to why its stats -- that it - it -- why it became

25 cold. You know, we would review it and then -- and it

1 would say that -- could be a case that there's no --
2 there's no clues to follow up on, that kind of stuff.

3 Q And what was your understanding of the purpose
4 of providing that information to the commander?

5 A Because he asked for it.

6 Q Okay. Did he ever tell you why he wanted that
7 information?

8 A Like I said before, he could be going to a
9 meeting and conferring with the tac lieutenants and the
10 commanders of the district -- specific district and tell
11 them this, if they give -- and give them information
12 that these are the cases that were open, because they're
13 -- they were -- because of their responsibilities in
14 these districts, they had to respond to their crime --
15 their crime statistics, also.

16 Q Okay. Did a commander or a lieutenant in
17 Area 5 ever tell you that there were too many unsolved
18 cases or too many cold cases in your area?

19 A No.

20 Q Okay. Did you ever receive pressure of any
21 kind to close more cases?

22 A No.

23 Q Okay. Was one of your responsibilities as a
24 supervisor in Area 5 to discipline detectives?

25 A One of the supervised responsibility in police

1 department is to discipline their manpower, if need be.

2 Q Okay. So for you, as a sergeant overseeing
3 detectives, that would've been -- your responsibility
4 would be to discipline detectives, if need be?

5 A If there was complaints against detectives, I
6 could discipline them, yes.

7 Q Okay. Do you recall ever having to hand out
8 any discipline to detectives while you were a sergeant
9 at Area 5?

10 A No.

11 Q Were you responsible for providing any
12 training to the detectives you supervised at Area 5?

13 A No.

14 Q Generally speaking, was one of your
15 responsibilities, as a sergeant at Area 5, to ensure
16 that the officers you supervised followed Chicago Police
17 Department policies?

18 MR. BRUEGGEN: Object to form. John, you said
19 the officers, and I don't know if you're trying to
20 distinguish between detectives. I just want to
21 make sure it's clear.

22 MR. HAZINSKI: Yeah, I just mean anyone he
23 supervised.

24 MR. BRUEGGEN: Got you. Thank you.

25 THE WITNESS: Please repeat the question.

1 BY MR. HAZINSKI:

2 Q Sure. Was one of your responsibilities as a
3 sergeant at Area 5 to make sure that the detectives or
4 other officers you supervised complied with Chicago
5 Police Department policies?

6 A Yes. On day-to-day basis, yes.

7 Q Okay. So in that role, were you familiar with
8 the police department's written policies?

9 A In general, yes.

10 Q Okay. And what do you mean by, "in general"?

11 A Well, specifically, I can't -- I -- I would
12 not be able to specifically say which policy would be
13 there. Would -- it was -- I could refer to it, you
14 know, because we want them to come to work, we want them
15 to do their job, and -- and -- and eight for eight, as
16 they used to say, so --

17 Q What does that mean?

18 A Eight hours for eight hours' pay.

19 Q Making sure that no one was slacking off,
20 essentially?

21 A Exactly.

22 Q As a sergeant in Area 5, did you have physical
23 copies of Chicago Police Department policies that you
24 were able to consult?

25 A They were available.

1 Q Okay. Where were they available?

2 A I think in a binder-y form in the commander's
3 office.

4 Q Did those include Chicago Police Department
5 general orders?

6 A Yes.

7 Q Did they include CPD special orders?

8 A Yes.

9 Q Do you recall if they included any other types
10 of written directives?

11 A There was a handbook for detectives that were
12 given to them during their training on how to -- how to
13 investigate certain types of crimes that they have.

14 Q So then, in addition to the general orders,
15 special orders, and detective handbooks, can you think
16 of any other written directives that were in that
17 collection in the commander's office?

18 A Well, we -- you know, and to get back to
19 directives, we also had a CO book that we had. It was a
20 commanding officers' book that we reviewed every day at
21 roll call. And there were directives from -- in -- in
22 -- in those books, we would discuss them at roll call.

23 Q Okay. And what was the subject matter of the
24 directives in the commanding officer book?

25 A It went from day-to-day. It's a different --

1 it was a different thing, whatever -- whatever was
2 relevant for that day. They -- they could be -- it
3 wasn't every day, but it was at -- particular times it
4 would be in the CO book. Maybe something from the
5 Chief of discs coming down, something maybe from the
6 superintendent's office, maybe something from the deputy
7 chief's office, or something maybe from the patrol
8 division.

9 Q Okay. So the directives from the CO book that
10 you reviewed at roll call, those came in periodically
11 from higher up, and you were required to relay those to
12 the detectives; is that right?

13 A Yeah. They -- they would put them in the --
14 the front office would put them in the CO book.

15 The CO book would be used at -- we used the CO
16 book at every -- at every roll call.

17 Q Got it. Can you give any examples of the
18 kinds of directives of the subject matter or the
19 directives that would come into the CO book?

20 A No, I don't remember.

21 Q Do you recall if it had to do with day-to-day
22 police operations?

23 A I believe so, yes.

24 Q So in supervising officers at Area 5, you used
25 the phrase "eight for eight" to mean you wanted to make

1 sure that the detectives or other folks that you
2 supervised were putting in an honest day's work and
3 doing their jobs essentially, right?

4 A Yes.

5 Q Okay. If you learned that a detective was not
6 doing that -- well, actually, let me ask it this way.

7 Did you ever come to learn or come to suspect that a
8 detective was not doing that?

9 A No, not that I remember.

10 Q Was one of your responsibilities as a sergeant
11 in Area 5 to monitor for potential misconduct by
12 detectives?

13 A As a specific thing? In general, yeah, if
14 something was -- was -- I -- I would -- it would be my
15 responsibility to take action on it, yes.

16 Q Okay. When you became a sergeant, did you
17 receive training on how to monitor for misconduct by
18 detectives?

19 A I don't remember.

20 Q Okay. Do you recall ever learning or coming
21 to believe that any of the detectives you supervised had
22 engaged in misconduct?

23 A Not that I recall.

24 Q Do you recall ever having to escalate any
25 concerns about any of the detectives you supervised to a

1 lieutenant or another higher-up in the department?

2 A I don't remember ever doing that, no.

3 Q And I believe earlier, you testified that you
4 don't remember ever having to hand out any sort of
5 formal discipline to detectives under your supervision;
6 is that correct?

7 A Yes.

8 Q Short of a -- something formal, like a written
9 reprimand, did you ever have to sit down with a
10 detective and give them a talking-to or help them course
11 correct some aspect of their job performance?

12 A I don't remember.

13 Q Okay. One of your responsibilities as a
14 sergeant was to approve written reports, right?

15 A Yes.

16 Q Can you please describe the process of
17 reviewing and approving a report that was submitted to
18 you?

19 A I don't understand.

20 Q So detectives would prepare written reports
21 and then turn them into you for your approval, correct?

22 A They would -- they would put them in a basket.
23 It was an end basket.

24 Q Where was that basket located?

25 A On the sergeant's desk.

1 Q So actually, let's take a step back. So was
2 the sergeant's desk in an office in the Area 5, or was
3 it kind of in the main central area?

4 A It was in an office.

5 Q Okay. Was that office shared with anybody
6 else?

7 A The office itself had two -- two detectives
8 assigned to it doing clerical -- basically clerical
9 work, and the -- there was a desk for a sergeant.

10 Q And the commander had his own office, right?

11 A Lieutenant had his own office, Commander had
12 their own office.

13 Q Okay. And at any given time in this period
14 around 1993, there was just one commander and one
15 lieutenant for Area 5?

16 A No, there was a lieutenant assigned to
17 property crimes.

18 Q Okay. So there were two lieutenants?

19 A Two lieutenants who normally worked the area,
20 yes.

21 Q And so one was in charge of property, meaning
22 the other one was in charge of violent crimes?

23 A Yes.

24 Q Okay. And so you, as a sergeant, would review
25 reports that were left on the basket on the sergeant's

1 desk, right?

2 A Yes.

3 Q Okay. So how would you go about reviewing and
4 approving those reports?

5 A I would remove them from the basket, read
6 them, and then -- and if -- and then sign them off --
7 sign off on them so they can go into the official files.

8 Q When you read through them, what were you
9 looking for?

10 A A, the first thing, is the status of the case,
11 and B, does the narrative of the -- of the report
12 justify the status of the case that I'm reading?

13 Q Okay. So when you say status of the case,
14 could you explain a little more what that means?

15 A Well, there's several types of classifications
16 on a case. It could be suspended. You get a report
17 suspending the case. We could get a report that clears
18 the case. What -- we could have a report that's a
19 progress report that there's no adjudication of it at --
20 yet, that just -- information. That's -- that's what
21 the box is on the front end.

22 Q Okay. So you would read the narrative
23 description in the report and make sure that it matched
24 up, so to speak, with the status that had been indicated
25 on the first page of the report; is that right?

1 A Yes.

2 Q Okay. Other than that, was there anything
3 else you were looking for when you reviewed reports?

4 A I just looked for clarity if the report makes
5 sense when you read it.

6 Q Okay. You recall ever reviewing any reports
7 that you felt didn't make sense?

8 A And -- in my career as a sergeant? I think --
9 yes, I -- I -- I believe so. Yes.

10 Q Do you recall what you did in those
11 circumstances?

12 A I turned them back to the -- the detective who
13 authored them and had them corrected.

14 Q So when detectives put the report in the
15 in-basket to be reviewed by the sergeant, what they were
16 submitting was their completed report, right? As
17 opposed to a partial draft of a report?

18 A No, it's -- it was a report for approval, so
19 they can go downtown into the files.

20 Q Okay. And when you say, "go downtown," what
21 are you referring to?

22 A I believe that the assigned report went
23 downtown for the filing system.

24 Q Okay.

25 A The official files.

1 Q To the records division?

2 A I -- yeah, that's the place.

3 Q Okay. So essentially, once -- would it be
4 fair to say that once the detective turned the report
5 into you, if you reviewed and approved it, at that
6 point, it would get sent off and it would not go back to
7 the detectives after that point, right?

8 A It -- it -- after it was signed, I put it in
9 another basket. It's a signed basket, where the case
10 management people would retrieve it and send it on its
11 way to downtown.

12 Q Okay.

13 A To the records, or wherever they went.

14 Q Okay. Would it have been proper for a
15 detective, in 1993 in Area 5, to submit a report for
16 approval, get a supervisor signature, and then retrieve
17 the report and change information in the report?

18 A It's -- anything's possible. This -- it's
19 -- the -- the basket -- after I put it in the basket, it
20 sits there. When it was retrieved, it could be hours,
21 it could be immediately. I don't know. The possibility
22 exists that somebody could pick it up and change it.

23 Q Okay. Would that have been proper according
24 to your understanding of the procedures at the time?

25 A No. What would be proper was, say, if he

1 would -- the detective, for example, would come up to me
2 and say, "Listen, I think I need to change something on
3 this report. Can I get it back?" And then -- then they
4 -- then I would -- we would try to find it and change
5 it

6 Q And if that happened -- so in other words, a
7 detective could go back and change a report that had
8 already been approved, but only if the detective cleared
9 it with you, so to speak?

10 A No, see, we got to -- if -- if it -- if it --
11 if you're talking about immediately, you know, if I sign
12 a report, 20 minutes later, he comes in and tells me,
13 "There's a mistake, I got to make" -- he can correct any
14 mistake by the use of a supplemental report. And it
15 would be the form set again, and just -- and it -- and
16 it's is a sub correcting information. This is to
17 correct -- the CB number's wrong, say, for example, on a
18 -- in a -- and -- and -- and this is submitted for that
19 correction. So he doesn't need to pick up the report,
20 pull out the pages, and change it. He could do it via
21 -- that's the -- the process would be to do a
22 supplementary report on it.

23 Q I see. So the way to fix a mistake is to file
24 a new report explaining what the issue was?

25 A Right.

1 Q Would it be improper for a detective to, for
2 example, use white-out on a report that had been
3 submitted for approval to -- and write over new
4 information?

5 MR. BRUEGGEN: Object to form. Incomplete
6 hypothetical. Go ahead.

7 A At that time, there would be white-out on
8 forms at times, because in -- in those days, we were
9 using - the -- the departments had typewriters, whereas
10 some of the detectives had their own word processors.

11 So white-out would exist on some of our forms
12 in those days.

13 Q Right. If a detective noticed a mistake in a
14 report after it had been submitted, or realized that
15 there had been a mistake in a report, you said that the
16 appropriate course is to submit a new report explaining
17 what the mistake was, and I'm trying to ask if it would
18 also have been appropriate for a detective to fix that
19 mistake using white-out instead.

20 MR. BRUEGGEN: Object to form. Misstates his
21 testimony.

22 A Depends on the location of where the original
23 report -- the original document we're talking about,
24 that he wants to change, where it was. If it's
25 downtown, he has to do a supplementary report correcting

1 that mistake. If -- if -- if he came to me and said,
2 "Listen, I just submitted something, I got to change
3 something on it," I'd give him back his report, you
4 know?

5 Q So when you reviewed reports before approving
6 them, you testified that you wanted to make sure that
7 the narrative description in the reports supported the
8 classification of the status on the first page, and that
9 it was -- the report was clear and made sense. Other
10 than those things, was there anything else you were
11 looking for when you reviewed reports for approval?

12 A If it was -- if it was involved in arrest, I'd
13 see if the CB numbers and air numbers are correct, the
14 name of the offender shown. But aside from that, that's
15 -- you know, it -- that's -- I would assign it, but with
16 the CB numbers and name of the offender would be
17 declared closed or declared open. Its classification it
18 means the case is cleared.

19 Q Okay. Did the process of reviewing these
20 reports for approval require you to read them carefully?

21 MR. BRUEGGEN: Object to form.

22 A I read all the reports that I -- I signed.

23 How careful I read them, I don't know. I
24 don't -- I would assume I read them carefully.

25 Q Okay. For you, as a sergeant in 1993 at Area

1 5 would it have been appropriate for you to sign off on
2 reports without reading them?

3 A I can't imagine why I wouldn't read something
4 if I signed it.

5 Q Now, when you were reviewing reports from the
6 in-basket, did you review each report on its own, as you
7 were treated from -- together with other reports that
8 had been filed on that same investigation?

9 COURT REPORTER: I'm sorry, this is the Court
10 Reporter. My audio cut out. Could you repeat that
11 question?

12 BY MR. HAZINSKI:

13 Q Sure. So when you reviewed reports from the
14 in-basket, did you review each report that was submitted
15 on its own one by one, or did you consult the -- that
16 report, alongside with the other reports that had been
17 already submitted in that case?

18 MR. BRUEGGEN: Object to form. Incomplete
19 hypothetical. Go ahead.

20 A I would take -- I would just review the forms
21 as they were submitted.

22 Q Okay. So for example, if you had a new
23 progress supp report in an ongoing investigation, it was
24 not your usual practice to go retrieve the investigative
25 file for that case and pull the other reports to review

1 them along with the new report, right?

2 MR. BRUEGGEN: Object to form.

3 A Yes.

4 Q Okay.

5 THE WITNESS: Down to take a break?

6 MR. HAZINSKI: Oh yeah, we can --

7 MR. BRUEGGEN: Why don't we take a break?

8 He needs --

9 COURT REPORTER: Okay. We're off the record.

10 The time is 11:00 a.m.

11 (OFF THE RECORD)

12 COURT REPORTER: We're back on the record.

13 The time is 11:05 a.m.

14 BY MR. HAZINSKI:

15 Q So Mr. Biebel, you mentioned that there were
16 some occasions on which you might be reviewing a report
17 and determined that it was unclear and asked the
18 detective to fix it. Could you estimate about how often
19 that happened?

20 A Not very often.

21 Q Okay. When you say not very often, would it
22 happen weekly, or less often than that?

23 A Less often.

24 Q Did it happen more than once a year?

25 A I don't remember. I don't think so, though.

1 Q Okay. Do you recall if there were any
2 officers that you had to -- and when I say officers, I
3 mean detectives or other individuals you supervised,
4 whose reports you had to send back for more clarity
5 repeatedly?

6 A No. There are none -- not that I remember.
7 I don't believe so, no.

8 Q And earlier, you testified about what happened
9 to these reports after they were approved, and you said
10 that once they got approval, they would be sent
11 downtown, right?

12 A After I approved them, I would put them in a
13 basket behind -- on -- in the sergeant's office, on the
14 file cabinets. And from time to time, the case
15 management people who are in charge of the -- the case
16 files in the area would take those things and process
17 them downtown -- to downtown. I don't know how they did
18 it, but they made their way downtown.

19 Q Were the case manager people in the area sworn
20 officers?

21 A Yes.

22 Q Were they detectives?

23 A Yes. There was a case -- there was a case
24 management sergeant, and he had what we called summary
25 detectives in the back.

1 Q Were those summary detectives the ones that
2 had desks in the same office with the sergeant's desk?

3 A No, those were different.

4 Q Okay. Do you recall who the case management
5 sergeant was at Area 5 in 1993?

6 A Bill Murray.

7 Q As a sergeant in Area 5, were you ever
8 responsible for placing reports or other documents into
9 investigative files?

10 A Was it my duty to do it; is that your
11 question? Please repeat the question.

12 Q Was it one of your responsibilities to do
13 that?

14 A No.

15 Q Okay. Whose responsibility was it?

16 A The detectives'.

17 Q Okay. In your role as a sergeant at Area 5,
18 did you ever have occasion to look through or examine
19 investigative files?

20 A Yes.

21 Q Okay. And what were the circumstances where
22 you would do that?

23 A As I said earlier, I was -- when someone would
24 ask me to put a report together on open cases, I would
25 review investigative files and type reports from that.

1 Q Okay. Outside of that context, where you were
2 doing your review of open cases, did you ever have any
3 reason to look in investigative files?

4 A I believe I -- I'm -- I'm sure I have.

5 When people call on the phone and want to know
6 the status of a case, I might turn around and pull up
7 the case and review it and give them their answers if
8 they ask.

9 Q Okay. Earlier, you testified that you were,
10 at the time, generally familiar with CPD's policies in
11 connection with your supervision of the detectives to
12 make sure that they were generally adhering to those
13 policies; is that a fair summary?

14 A Yes.

15 Q Okay. So I want to ask you about your
16 recollection of some particular policies. So do you
17 recall whether there were any policies in effect in 1993
18 pertaining to jailhouse informants?

19 A I'm not aware of that, no.

20 Q Okay. And just to be clear, when I say
21 jailhouse informants -- I'll ask it another way just so
22 it's clear. Do you know whether the police department
23 in 1993 had any policies about offering leniency or
24 benefits to an incarcerated witness in exchange for
25 their cooperation in an investigation?

1 A I'm not aware of that.

2 Q Okay. Do you know whether there was a policy
3 in place in 1993 that prohibited doing that?

4 A I'm not aware of that.

5 Q Okay. In 1993, were there any CPD policies
6 that you recall governing the use of confidential
7 informants?

8 A I don't -- what's a confidential informant?

9 Q Okay. So is that -- does that term
10 confidential informant have any meaning to you?

11 A From new -- from television and movies, I've
12 heard -- heard the term. I've seen the term -- in my
13 mind, a confidential informant is a cooperating
14 individual that you -- that people come in contact with
15 on the street.

16 Q Were you familiar with that term from your
17 work at Area 5, or just from media?

18 A The term? What term are you talking of?

19 Q Confidential informant.

20 A Confidential informant was used --
21 specifically in this matter, I saw it -- I -- I saw it
22 -- I read it today, or yesterday, or whenever when I let
23 -- review the reports. It's my understanding
24 confidential informant, as used in our reports, was a
25 cooperating individual who -- who didn't want to be

1 identified for safety issues.

2 Q Back in 1993, did you have an understanding of
3 what the term confidential informant meant?

4 A As I just said, my -- my understanding of
5 confidential informant, in 1993, was a subject who
6 didn't want to be identified for fear of reprisal and
7 was going to offer street information as to whatever the
8 detective would be seeking.

9 Q Okay. Do you recall any Chicago Police
10 Department policies that were in place in 1993 relating
11 to the use of confidential informants?

12 A I'm not aware of a policy at that time.

13 Q Okay. Do you recall any occasion when you
14 were a sergeant at Area 5 where you asked a detective to
15 reveal the identity of a confidential informant?

16 A I did not.

17 Q Do you know whether detectives in Area 5, in
18 1993, maintained lists or other records of the identity
19 of confidential informants?

20 A I'm not aware of that.

21 Q I want to ask you now a little bit about file
22 keeping at Area 5. When you became a sergeant, do you
23 recall whether you received any training on the
24 obligation to turn over evidence and information to
25 criminal defendants?

1 MR. BRUEGGEN: Object to form. Go ahead.

2 A I don't remember. I don't recall that.

3 Q Do you recall, at any point in your career,
4 receiving training on the subject of the obligation to
5 turn over evidence and information to criminal
6 defendants?

7 A I don't recall.

8 Q Okay. As you sit here today, do you have an
9 understanding of the nature of the obligation to turn
10 over information and evidence to criminal defendants?

11 MR. BRUEGGEN: Object to form. Go ahead, sir.

12 A Yes.

13 Q Okay. And what is your understanding?

14 A That if someone subpoenas information, you --
15 you fill the subpoena.

16 Q In 1993, as a sergeant at Area 5, did you have
17 any responsibility to ensure that evidence and
18 information were disposed to criminal defendants?

19 A No.

20 Q Whose responsibility was it?

21 MR. BRUEGGEN: Object to foundation.

22 COURT REPORTER: Was that an objection?

23 MR. BRUEGGEN: Yes. Object to foundation,
24 sorry.

25 THE WITNESS: I don't know whose

responsibility that was.

BY MR. HAZINSKI:

Q In 1993, if you learned that a detective had hidden or concealed evidence so that it wouldn't reach criminal defendants, would that have constitute of a -- constituted a violation of policy in your understanding?

MR. BRUEGGEN: Objection. Incomplete hypothetical and form.

MS. BARBER: I couldn't -- I don't know if anybody else heard that objection. I did not.

THE WITNESS: I didn't know what she said, JD.

MS. BARBER: I just said that I didn't hear the objection, but maybe I was the only one.

MS. MCGRATH: No, I couldn't hear it either, Katie.

MR. BRUEGGEN: Objection. Incomplete hypothetical and form.

MS. MCGRATH: Thank you.

THE WITNESS: Please repeat the question there.

BY MR. HAZINSKI:

Q Sure, and I'll try to ask it maybe in a slightly clearer way. So generally speaking, one of your responsibilities as a sergeant was to make sure that detectives adhered to CPD policies broadly, and I

1 want to know if that included any supervision to make
2 sure that detectives were meeting their obligations to
3 turn over evidence and information so that it would
4 reach criminal defendants?

5 MR. BRUEGGEN: Objection. Form, incomplete
6 hypothetical, vague.

7 A The detective's responsibility was to -- to
8 inventory, if need be, and put into the investigative
9 file and send it down into the Records section any and
10 all paperwork that they're dealing with.

11 Q If you had learned that detectives were
12 withholding any paperwork from the investigative file,
13 would that have represented a breach of policy as it
14 existed in 1993?

15 MR. BRUEGGEN: Objection. Form, incomplete
16 hypothetical.

17 A I'm not familiar with what the 1993 policies
18 were in regards to something of that nature.

19 Q Okay. So was the investigative file the file
20 that Area 5 detectives used to store police reports and
21 notes while an investigation was ongoing?

22 A Yes.

23 Q Were there any other terms for that file?

24 A I think we called it the -- the running file,
25 street file, investigative file.

1 Q Did you ever hear that file called a working
2 file?

3 A I've -- I've heard the term working file, yes.

4 Q Okay. And were those investigative files
5 stored in the sergeant's office at Area 5?

6 A Yes.

7 Q In file cabinets, correct?

8 A Yes.

9 Q Were the file cabinets kept locked?

10 A In 1993 or in general?

11 Q In 1993.

12 A I don't remember it happened in 1993, but
13 subsequent to that day, subsequent, it became an issue,
14 so we began locking the -- locking the files.

15 Q You recall approximately when they started
16 doing that?

17 A During my term there, I don't recall exactly
18 when.

19 Q Okay. And your term there ended in, I'm
20 sorry, '98, correct?

21 A I was promoted in 1998 out of there, yes.

22 Q Okay. Do you recall what precipitated this
23 change where they started locking the file cabinets?

24 A No.

25 Q Do you recall how that change was implemented?

1 In other words, do you recall whether it was a directive
2 you received from supervisors?

3 A As I recall, a meeting was held for the
4 personnel supervisor Area 5, saying that we're going to
5 lock the files, and there was a key, there was -- that
6 -- that in order -- if someone wanted a file out, they'd
7 have to ask a sergeant to open up the file for their
8 access.

9 Q Do you recall Phil Cline was one of the people
10 involved in that meeting?

11 A Excuse me?

12 Q Do you recall Phil Cline was one of the people
13 involved in that meeting?

14 A He was a commander at one time at Area 5, yes.

15 Q Do you recall if he was involved in that
16 meeting relating to the file cabinets?

17 A It's possible. I don't remember exactly it
18 was -- it was during my -- it was during my tenure at
19 Area 5 and he was one of my commanders in those days.

20 Q Okay. Do you recall whether the decision to
21 start locking the file cabinets for the investigative
22 files was the result of concerns about officers
23 tampering with those files?

24 A I don't know what the basis of that was.

25 Q Okay.

1 A Just know that they came about, we had a
2 meeting about it, and -- and there was some type of an
3 order that the -- the -- the files should be locked.

4 Q Okay. Did you know Joseph Miedzianouski?

5 A Yes.

6 Q Okay. Did you ever have any conversations
7 with Phil Cline about Joseph Miedzianouski?

8 A No.

9 Q Was Joe Miedzianouski one of the officers that
10 you supervised when you were a sergeant of Gang Crimes
11 North?

12 A Yes. At one time or another, yes.

13 Q Okay. In your supervision of Joe
14 Miedzianouski in Gang Crimes, did you have an
15 opportunity to form an opinion about his police work?

16 A Yes.

17 Q And what opinion was that?

18 A He was a very good police officer.

19 Q What were his strengths as a police officer?

20 A His personality and his -- his rapport with
21 the -- with the gangs that he was assigned to.

22 Q Joe Miedzianouski had good rapport with the
23 gangs, you're saying?

24 A Yes.

25 Q Do you ever become concerned that his rapport

1 with the gangs was too good?

2 A No.

3 Q You said his personality was his strength.

4 Could you describe what you mean by that?

5 A He was an outgoing, personable individual who,
6 in my mind, could relate to the younger people on -- on
7 from the street.

8 Q Okay. Do you recall which gangs he focused on
9 as a gang crime specialist?

10 A When he worked in Area 6, I think he had the
11 Simon City Royals.

12 Q And was that the period of time when you
13 supervised him?

14 A Yes.

15 Q Okay. Did you continue to interact with
16 Joseph Miedzianouski after you became a sergeant in Area
17 5?

18 A Yes.

19 MR. BRUEGGEN: Object to form.

20 A Oh, excuse me. Yes.

21 Q All right. What capacity did you interact
22 with him at Area 5?

23 A Professional.

24 Q Okay. He was still working in Gang Crimes at
25 that period of time, correct?

1 A In -- yeah, he had -- he was a gang -- he was
2 a gang specialist, as long as I can remember.

3 Q Okay. And in his work as a gang crime
4 specialist, did he sometimes come to the Area 5 offices?

5 A He may have, yes.

6 Q Okay. Do you remember ever interacting with
7 him at Area 5?

8 A I don't remember ever talking to him up there.
9 I talked to him on the phone from Area 5, but I don't
10 remember seeing him up at the office.

11 Q Do you have memories of specific conversations
12 you had with him on the phone while you were at Area 5?

13 A Nothing specific.

14 Q Okay. Do you recall why you were talking to
15 him on the phone from Area 5?

16 A Well, I was aware when I -- after I left the
17 Gang Unit, they gave him a -- he was a -- the gang
18 specialist in charge of the Latin Kings. And, from time
19 to time, if we had a -- a murder involving the Latin
20 Kings, or I would call him, tell him -- inform him about
21 the fresh -- whenever at the time I talked to him would
22 be a fresh case, and could he find out or ask around who
23 -- who we should look for.

24 Q But how about how many times did you contact
25 Joe Miedzianouski to receive that kind of information?

1 A I don't know how many times that was. I don't
2 remember.

3 Q Was it routine?

4 MR. BRUEGGEN: Object to form. Go ahead.

5 A If you mean what -- when we had a La -- a -- a
6 -- a -- a -- a gang shooting involving his gang, chances
7 are I'd probably call him and ask him about it.

8 Q Now, when a new case came in involving a gang,
9 was it your practice to always contact a gang crimes
10 officer who specialized in that gang?

11 A I -- say that question again, sir. I didn't
12 understand.

13 Q Sure. When a new case came in involving a
14 gang, was it your practice to always get on the phone
15 with a gang crimes officer who specialized in that gang?

16 A I would get on the phone or -- or reach out to
17 whoever I knew was working that specific gang. I would
18 do that on -- with people beside Joe Miedzianouski.

19 Q Okay. You recall any of the other gang crimes
20 officers you would contact to get that kind of
21 information?

22 A I would -- I would -- I -- I -- I had a
23 rapport with Jorge Figueroa, and I don't remember any of
24 the other guys, but I'm sure I had encounters with them
25 because -- depending on which gang case was involved.

1 Q What gang or gangs did Jorge Figueroa
2 specialize in?

3 A He was a -- an Imperial Gangster specialist.

4 Q Okay. So if you contacted a gang crimes
5 officer to get information when a new case came in, and
6 they provided you some information, what would you do
7 with that information?

8 A I -- first of all, they would -- I would tell
9 them who had the case. I expected them, if they got the
10 information, would call the detective who had the -- who
11 was assigned the matter. Joe called me and said that
12 so-and-so, I would pass it on to whomever the detective
13 was assigned that specific case.

14 Q Apart from cases involving gangs where you
15 would contact gang crimes officers to get information,
16 in other types of cases, did you ever make similar
17 inquiries at the start of a case to gather information?

18 MR. BRUEGGEN: Object to form.

19 A I -- I -- I don't understand what you just
20 said, sir, I'm sorry.

21 Q No, it's okay. It was kind of a confusing
22 question. Let me explain what I mean. So early on in
23 this deposition, I asked you sort of about your
24 responsibilities in Area 5 as a sergeant, and you said
25 that you were not an investigator, and you were not the

1 one investigating these cases. But it sounds like, from
2 your recent testimony, that you would -- when there was
3 a gang involved case, you would do -- you would make
4 phone calls or inquiries with gang crimes officers to
5 develop some preliminary information; is that a fair
6 summary of your testimony?

7 A My purpose of that was to notify them that the
8 gang that they were a specialty in was involved in a
9 shooting or a murder on a previous, whatever reason I
10 was calling them, and that so-and-so was assigned to the
11 case. I was just informing them that if -- could -- if
12 they look into it, get ahold of whomever the detective
13 assigned to that matter was.

14 Q Okay. In some cases where the gang crimes
15 officers would come back to you with information and
16 then you would pass that on to the detectives, right?

17 A Right.

18 Q Okay. So what I want to know is, apart from
19 the context of gang crimes, where you might reach out to
20 gang crimes officers to notify them and perhaps receive
21 information, were there any other cases where you would
22 make similar inquiries, unrelated to gangs, when a new
23 case came in?

24 MR. BRUEGGEN: Object to form.

25 A I don't recall anything to that, no.

1 Q Okay. Were you working at Area 5 in the
2 period of time when Joe Miedzianouski was arrested and
3 charged with federal crimes?

4 A I don't remember when he was arrested, and I
5 don't remember when he was charged with a federal crime.

6 Q Okay.

7 A Could you give me a date? I would tell you if
8 it was within a date period. I could tell you that, but

9 --

10 Q Well, I guess more specifically, what I'm
11 asking is whether you remember those events occurring
12 while you were still working as an Area 5 sergeant?

13 A Again, I don't remember when it happened, so I
14 don't know if I was -- it happened so -- so long ago.

15 I don't know where I was assigned the day they
16 arrested Joe.

17 Q Do you remember learning that he had been
18 arrested?

19 A I believe so. Yes, I -- I remember probably
20 hearing it from the news media, and I'm sure I got phone
21 calls about it, you know?

22 Q Do you remember who called you about it?

23 A No.

24 Q Okay. Do you remember what your reaction was
25 when you learned he had been arrested?

1 A I was in shock.

2 Q Yeah. Do you remember what crimes they had
3 arrested him for?

4 A No.

5 Q Okay. Do you recall any instance in which
6 Phil Cline or any other supervisor at Area 5 banned
7 Joe Miedzianouski from Area 5 for any period of time?

8 A I didn't know that happened.

9 Q Okay. Did Phil Cline ever tell you that he
10 believed that Joe Miedzianouski had tampered with a
11 homicide investigation?

12 A No.

13 Q Okay. I want to go back to file -- talking
14 about file keeping. So investigative files were in
15 these file cabinets, but in the period of 1993, those
16 file cabinets were not locked and were generally
17 accessible to the detectives working in the area; is
18 that right?

19 A Yes.

20 Q Okay. Now, after they became locked, who had
21 access to them?

22 A The -- the sergeants.

23 Q So once -- so you testified that, in this
24 period in 1993, you were not responsible for putting
25 documents into investigative files. That was the

1 detective's responsibility, right?

2 A Yes.

3 Q Once those filing cabinets were locked later
4 on, was it still the detective's responsibility to file
5 reports and other notes into the investigative file?

6 A Because it was in -- it was an investigative
7 file that the detectives worked with every day, the --
8 the file didn't permanently stay there. They -- once it
9 was removed, it was in the possession of that detective.
10 And if they generated a new report based on it, their
11 responsibility was to put it in there and log it,
12 because I believe there was a log in there, and -- and
13 who -- who -- who placed it in there. And we also had a
14 guy in charge of those files who filled the subpoenas
15 and -- and whatever reports need to be filed, his job
16 was to put those in that file, too, and fill the
17 subpoenas.

18 Q Okay. So even back, you know, in 1993, in
19 that earlier period of time, when detectives were
20 investigating a case, is it fair to say that they would
21 keep the homicide file with them during the pendency of
22 the investigation rather than returning it to the
23 sergeant's office over and over again?

24 MS. BARBER: Objection. Form, foundation.

25 MR. BRUEGGEN: Form.

1 A It is by understanding that if they weren't
2 using the file, they put it back into the files.

3 Q Okay. Were you responsible for making sure
4 that detectives put all reports, notes, and other
5 documents generated during criminal investigations into
6 the investigative file?

7 MR. BRUEGGEN: Objection. Asked and answered,
8 form. Go ahead, sir.

9 THE WITNESS: The responsibility of -- of
10 putting items into that file is the responsibility
11 of the detective.

12 BY MR. HAZINSKI:

13 Q Okay. If -- in 1993, if a detective wrote a
14 report and didn't put it into the investigative file, is
15 that something that you would have been able to notice?

16 MR. BRUEGGEN: Object to form, incomplete
17 hypothetical, vague.

18 A If a file -- if -- if a report was written and
19 I put it in the basket, I -- I wouldn't look to see if
20 it was in the file, if that's the question you're asking
21 me.

22 Q Okay. You said you wouldn't?

23 A I would not.

24 Q Okay.

25 A Wasn't my policy.

1 Q Okay. So detectives would prepare written
2 reports, typewritten sup reports in 1993, for the most
3 part, to document significant investigative steps; is
4 that fair?

5 A I -- I heard -- I don't understand what you
6 meant by that. Could you ask the question again?

7 Q Yeah. So if there was a major development in
8 the case, detectives would generally document that in a
9 typed report, right?

10 A Yes.

11 Q Okay. So were detectives required to prepare
12 those written reports immediately after the events that
13 occurred? Or, were they allowed to wait some period of
14 time before they typed it up?

15 MR. BRUEGGEN: Object to form.

16 A It -- it -- it -- it depends on the case.

17 It depends on the day. Depends on what their
18 schedule is. It could be receiving information. We
19 would hope that they would get it in as soon as
20 possible.

21 Now, if -- that -- that doesn't mean before
22 their tour's over. We also had constraints because of
23 overtime, so what we want them to do is get it in and
24 pass -- and so we can get it -- get it officially filed.

25 Q Okay.

1 MS. BARBER: And I'm sorry to interrupt, but
2 did the Court Reporter get the objection for that
3 previous question?

4 COURT REPORTER: I did. It was form, correct?

5 MS. BARBER: Okay. Okay. Thank you.

6 COURT REPORTER: Thank you.

7 MR. BRUEGGEN: And are you guys having a hard
8 time hearing me?

9 MR. HAZINSKI: Slightly.

10 MR. BRUEGGEN: Maybe I'm going to call in on
11 my cell phone, I got my cell phone, if you -- that
12 way, hopefully it's easier. Won't be missing my
13 beautiful objections, I'm sure I'll be --

14 MR. HAZINSKI: Dave, are you still working on
15 calling in?

16 MR. BRUEGGEN: Yeah. Yeah. I -- hold on,
17 there we go. Let me see if this works. Can you
18 guys hear us?

19 MR. HAZINSKI: Yes.

20 MR. BRUEGGEN: Bob, can you hear him?

21 THE WITNESS: Yes.

22 MR. BRUEGGEN: Good. Hopefully this will be
23 better. My phone might be a little more sensitive
24 than the computer.

25 MR. HAZINSKI: You sound a lot clearer, Dave,

1 so hopefully that will resolve the issue going
2 forward.

3 MR. BRUEGGEN: Great. Thank you for your
4 patience.

5 BY MR. HAZINSKI:

6 Q Of course. So Mr. Biebel, based on your
7 understanding of policy in 1993 at Area 5, were
8 detectives allowed to keep their own files of police
9 reports, notes, or other documents separate from the
10 main investigative file?

11 MR. BRUEGGEN: Objection. Form. Go ahead,
12 sir.

13 A It's my understanding there was supposedly
14 only one file, and it was the investigative file.

15 Q Okay. And during violent crimes
16 investigations, did detectives frequently take
17 handwritten notes?

18 MR. BRUEGGEN: Object to form.

19 A Some have, yes. I don't remember who and
20 when, and -- but there were handwritten notes taken.

21 Q Okay. Were there any policies or rules
22 governing how detectives were supposed to make
23 handwritten notes?

24 A I don't remember.

25 Q Do you recall whether detectives were required

1 to make handwritten notes on general progress reports?

2 A I don't remember, but we -- we -- we preferred
3 that would occur, yes.

4 Q Okay. When you say you preferred, could you
5 explain what you mean by that?

6 A Instead of having, like, a matchbook in the
7 file that they took notes on, if you remember what a
8 matchbook was, or just general napkins or something, we
9 would prefer that they would use the document.

10 Q Okay. And why is that?

11 A It's -- it's concise and it's -- it fits the
12 file, you know?

13 Q Okay.

14 A So and it becomes more official, I think,
15 because it -- if you look at the -- the GPR has a
16 department document number on it and sort of makes an
17 official document that way.

18 Q Okay. Were detectives who made handwritten
19 notes on GPRs required to submit those GPRs to a
20 sergeant for approval?

21 A There is a sergeant box on the GPR, and it was
22 -- it was supposed to be the policy that we -- that they
23 submit to us, and we can sign them.

24 Q When you say "supposed to be the policy," what
25 do you mean by that?

1 A The -- it -- my understanding that's what the
2 policy is. That we signed the case -- or that the --
3 the GPR.

4 Q In 1993 --

5 A Leaving it in the sergeant --

6 Q In 1993, was that policy generally followed?

7 MR. BRUEGGEN: Object to form.

8 A I -- I don't remember.

9 Q Okay. Were officers who wrote GPR supposed to
10 sign it?

11 A I -- If -- if -- I don't remember what it
12 looks like, but I believe their -- their signature is on
13 it, yes.

14 Q Okay. As a sergeant in Area 5 in 1993, did
15 you review and approve handwritten general progress
16 reports?

17 A I don't remember specifically, but I'm sure I
18 did.

19 Q Okay. Now, you were not -- so earlier, when I
20 was asking you about whether it was common for
21 handwritten -- for detectives to make handwritten notes
22 during homicide investigations -- or, sorry, I believe I
23 said violent crimes investigations, I believe you
24 indicated that some detectives may have done so, and
25 some detectives may not have done so; was that a -- is

1 that accurate?

2 A From best of my knowledge, yes.

3 Q Okay. Do you recall which detectives
4 generally did not take notes?

5 A No.

6 Q Okay. In 1993, as a matter of policy, as you
7 understood it, would it have been appropriate for a
8 detective to make handwritten notes, summarize those
9 notes in a typed supplementary report, which was
10 submitted for approval, and then destroy the handwritten
11 notes?

12 MR. BRUEGGEN: Object to form. Compound.

13 Go ahead.

14 A Oh, I -- I don't have any firsthand knowledge
15 of that.

16 Q Okay. Were you aware of any policies that
17 existed in 1993 that required Area 5 detectives to keep
18 their handwritten notes?

19 MR. BRUEGGEN: Object to form.

20 A I'm not aware of that, no.

21 Q Okay. So I believe you testified that after
22 an investigation was closed, other officers at Area 5
23 would be responsible for transmitting the file to a
24 different part of the police department; is that right?

25 A I -- I'm confused at the early part of your

1 question. Could you please repeat it?

2 Q Sure. After a -- an investigation was closed,
3 at the end of the investigation, in other words, there
4 would be officers at Area 5 who were responsible for
5 taking the investigative file and transmitting it to
6 some other part of the police department, right?

7 A Investigative file stayed in our office until
8 -- for a certain period of time. I don't remember what
9 the time parameters are, but because of -- because it's
10 a -- we had a -- in those file cabinets we had, we had
11 closed cases. Those cases are those who were arrested
12 with CB numbers and now it's in the Court system. Those
13 files were accessed when subpoenas came, inquiries were
14 made on it, and we had a -- we had a person who filled
15 those subpoenas.

16 Q Okay.

17 A And -- and the paperwork that I put in the
18 basket would be collected and sent downtown.

19 Q I see. Okay. And you said that a closed case
20 with an arrest and a CB number, and so forth, would stay
21 in that office at Area 5 for some period of time?

22 A Yes.

23 Q Do you recall whether there was a definite
24 time limit after which it would be removed?

25 MS. BARBER: Objection. Form --

1 A I -- I --

2 MS. BARBER: -- foundation.

3 A I -- I don't know. I don't know what the
4 policy is on that.

5 Q Okay. Do you know -- one way or the other, do
6 you know where those closed investigative files would go
7 after they left the sergeant's office?

8 MS. BARBER: Objection. Form --

9 MR. BRUEGGEN: Object to foundation.

10 MS. BARBER: -- foundation.

11 MR. HAZINSKI: I'm sorry. I couldn't hear the
12 answer.

13 THE WITNESS: I haven't answered it yet --

14 BY MR. HAZINSKI:

15 Q Oh.

16 A -- maybe that's why. It is my understanding
17 that once the case left Area 5, the investigative file
18 was sent downtown, of which -- and they kept that file
19 somewhere. I don't know how. Never -- never saw it.

20 Q Okay. And you said there was a person in
21 Area 5 whose job was to respond to subpoenas that came
22 in, right?

23 MS. BARBER: Objection --

24 A Yes.

25 MS. BARBER: -- form, foundation.

1 Q Okay. And was that person a sergeant or a
2 detective?

3 MS. BARBER: Objection. Form --

4 A A detective.

5 MS BARBER: -- foundation

6 Q Okay. In 1993, do you know who that detective
7 was?

8 A No. I don't remember who it was.

9 Q As a sergeant in Area 5, in 1993, were you
10 responsible for overseeing the work of the detective who
11 responded to subpoenas?

12 MR. BRUEGGEN: Object to form. Vague.

13 A My understanding is that that detective was
14 assigned to the commander's office.

15 Q In other words, that wasn't your supervisory
16 responsibility, it was someone else's?

17 A Responsibility -- no, it wasn't my
18 responsibility. I -- I had supervisory -- I -- I was a
19 sergeant and -- and he was a detective, so I had that
20 responsibility, but the direct responsibility went to
21 the front office.

22 Q Okay. So I guess what I'm trying to figure
23 out is as a sergeant in Area 5 in your role, do you --
24 were you responsible for making sure, for example, that
25 the detective who was responding to subpoenas was

1 providing complete and accurate subpoena responses?

2 MR. BRUEGGEN: Objection. Form. Vague.

3 Asked and answered. Go ahead.

4 A The responsibility would be that I -- I had no
5 -- I would never look over his files. He was working
6 for the sergeant in the commander's office.

7 Q Okay, thank you. Mr. Biebel -- so you knew
8 Rey Guevara from your time in gang crimes and your time
9 at Area 5, right?

10 A Yes.

11 Q Okay. When you worked in the same parts of
12 the police department, were the two of you friends
13 outside of work?

14 A Friends -- I -- we were acquaintances.

15 I would socialize with him occasionally, yes.

16 Q What kinds of things would you do when you
17 socialized with him?

18 A We had a softball team, and he was one of our
19 players. I played with him on those.

20 Q Okay. Do you remember any other times you
21 socialized with Rey Guevara outside of the softball
22 team?

23 A Sure. Occasionally when I was drinking, I
24 would probably go out and have a drink with him.

25 Q And was this at gang crimes, at Area 5, or

1 both?

2 A Just at gang crimes.

3 Q Okay. Did you socialize with Rey Guevara --

4 so I guess I can ask -- the softball team -- was the

5 softball team in existence when you were at Area 5?

6 A I don't remember if the softball team's at

7 Area 5, but there could have been. I don't remember,

8 though.

9 Q Okay. And you -- so while he worked in gang

10 crimes, you would go out and have a drink, but that

11 stopped once you were both working in Area 5; is that

12 right?

13 A It stopped in 1986.

14 Q Okay. And why did it stop in 1986?

15 A When I quit drinking.

16 Q Once you stopped drinking, apart from the

17 softball team, did you socialize with Rey Guevara in any

18 way?

19 A I don't remember. No, I don't think I did,

20 but I don't remember.

21 Q Do you recall the last time you spoke with

22 him?

23 A No.

24 Q Okay. Do you recall ever speaking with him

25 after you became a lieutenant?

1 A I may have, but I don't remember.

2 Q Okay. At Area 5, he was a detective. I want
3 to make sure I get the dates right. Do you recall what
4 year he became a detective?

5 A No.

6 Q Okay. Would it be fair to say that he was a
7 detective at Area 5 for more -- at least five years
8 while you were a supervising sergeant there?

9 A Yes.

10 Q Okay. Possibly longer?

11 A Possibly longer.

12 Q Yeah. And during that period of time, did you
13 approve and supervise the reports of investigations that
14 he worked on?

15 A Yes.

16 Q Are you able to estimate about how many
17 investigations that he worked on you supervised?

18 A I don't -- I don't understand what you mean by
19 supervised.

20 Q Well, one of your jobs at Area 5 was to
21 supervise homicide investigations, right?

22 A Yeah. Yes, that's true.

23 Q Okay. And he worked on many homicide
24 investigations, right?

25 A Yes, he did.

1 Q Okay. Do you recall how many homicide
2 investigations that Rey Guevara worked on you were
3 responsible for supervising?

4 A Rey worked a different watch than I did, so I
5 really didn't have any direct supervision with Rey.

6 He worked the third watch, I worked the second
7 watch. Once in a while, we might see each other, but I
8 would sign the reports if they were submitted. If his
9 name was on it, then I guess that's part of my
10 supervisory responsibilities.

11 Q Okay. Were you and Rey Guevara on different
12 shifts the entire time that the two of you worked at
13 Area 5?

14 A In most cases, yes. But time to time, I might
15 have filled in on the third watch for reasons beyond my
16 control.

17 Q Okay. In reviewing the reports prepared by
18 Rey Guevara during his investigations, and working in
19 the same detective area as him, did you have an
20 opportunity observe his detective work?

21 MS. BARBER: Objection. Form.

22 A I didn't have much contact with him when he
23 was working third watch and I was working the second
24 watch.

25 Q Did you have an opportunity to develop an

1 opinion about the quality of his detective work?

2 MS. BARBER: Same objection.

3 A Because of his ethnicity, say, and his -- and
4 his -- and his social life down in the community, he was
5 pretty successful in his investigations.

6 Q Okay. What do you mean when you say, "his
7 social life in his community"?

8 A Rey was an active church member. He was an
9 active -- I believe he -- he belonged or was a member of
10 the Puerto Rican parade committee. He lived in the
11 neighborhood. He had family in the neighborhood. So --
12 so based on that, he had -- he had access to a lot of
13 people down there.

14 Q Okay. And it is your opinion that his access
15 to those people and his community helped him work on
16 cases he was investigating at Area 5?

17 MR. BRUEGGEN: Objection. Form. Go ahead.

18 A Yes.

19 Q Okay. Can you think of any specific examples
20 where that was true?

21 MR. BRUEGGEN: Objection. Form.

22 A No.

23 Q Apart from his ethnicity and the social life
24 in his community, did you observe that -- or come to
25 believe that Rey Guevara had any other strengths as an

1 investigator?

2 MS. BARBER: Objection. Form.

3 MR. BRUEGGEN: Object to form.

4 A He spoke Spanish fluently.

5 Q And why was that helpful?

6 A Because we had a -- our area consisted of
7 Spanish speaking victims and offenders, and -- and he
8 could communicate with them.

9 Q Do you recall who, if any other detectives at
10 Area 5 in 1993, spoke Spanish?

11 A I don't recall the Spanish officers in 1993 in
12 Area 5 other than Rey Guevara.

13 Q Okay. And Rey was and is Puerto Rican, right?

14 A Yes.

15 Q Okay. Do you recall if there were any other
16 Puerto Rican officers at Area 5 in 1993?

17 A I don't remember who was in Area 5 in 1993.

18 Q Okay. Did you ever form the opinion or belief
19 that Rey Guevara was particularly skilled at obtaining
20 confessions from suspects in criminal investigations?

21 MS. BARBER: Objection. Form.

22 MR. BRUEGGEN: Objection. Form.

23 A Please repeat the question, sir.

24 Q Did you ever come to believe or form an
25 opinion that Rey Guevara was better or excelled at

1 obtaining confessions from suspects in criminal
2 investigations?

3 MS. BARBER: Same objection.

4 MR. BRUEGGEN: Objection. Form and compound.

5 Go ahead.

6 A I'm not aware of that.

7 Q Okay. Is it fair to say that Detective

8 Guevara was knowledgeable about gangs, given his prior

9 experience as a gang crimes officer?

10 MS. BARBER: Objection. Form.

11 A Yes.

12 Q Okay. Was it your opinion that Detective

13 Guevara's knowledge about gangs as an asset to him as an

14 investigator at Area 5?

15 MR. BRUEGGEN: Objection. Form. Vague.

16 A My opinion is yes.

17 Q Okay. While you were at Area 5, did anyone

18 ever tell you -- oh, strike that question. While you

19 were at Area 5, did you ever learn or come to believe

20 that Detective Guevara had fabricated a police report?

21 MR. BRUEGGEN: Objection. Form.

22 A No.

23 Q Okay. While you were at Area 5, did you ever

24 learn or come to believe that Detective Guevara had

25 improperly manipulated an eyewitness identification

1 procedure?

2 MS. BARBER: Objection. Form.

3 MR. BRUEGGEN: Objection. Form.

4 A But -- no.

5 Q Okay. While you were at Area 5, did you ever
6 learn or come to believe that Detective Guevara used
7 unlawful or coercive tactics during an interrogation?

8 MS. BARBER: Objection. Form.

9 MR. BRUEGGEN: Objection. Form and compound.

10 Go ahead.

11 THE WITNESS: No.

12 BY MR. HAZINSKI:

13 Q Okay. While you were working at Area 5, did
14 you ever learn or come to believe that Detective Guevara
15 ever committed perjury?

16 MR. BRUEGGEN: Objection. Form, compound.

17 Go ahead.

18 A No.

19 Q Did you ever have any concerns of any kind
20 about Detective Guevara's work as a detective at Area 5?

21 MS. BARBER: Objection. Form.

22 MR. BRUEGGEN: Objection. Vague.

23 A Repeat the question, please.

24 Q When you were a supervisor at Area 5, did you
25 have any concerns of any kind at any point about

1 Detective Guevara's work?

2 MS. BARBER: Same objection.

3 MR. BRUEGGEN: Objection. Form, vague.

4 A No. No, I don't picture -- no.

5 BY MR. HAZINSKI:

6 Q Okay. As you sit here today, are you aware
7 that, in response to questioning about his work as an
8 Area 5 detective, that Guevara has invoked his Fifth
9 Amendment right to remain silent?

10 MR. BRUEGGEN: Objection to the extent that it
11 calls for any attorney-client communications.

12 So with that, Bob, don't tell them anything
13 you learned from me. You want to rephrase the
14 question, John, just to --

15 MR. HAZINSKI: Yeah, I can --

16 MR. BRUEGGEN: -- exclude that? For the --

17 MR. HAZINSKI: I can phrase it differently.

18 MR. BRUEGGEN: Thank you.

19 BY MR. HAZINSKI:

20 Q So I'm not interested in anything that was a
21 communication between you and your attorneys that was
22 confidential. So setting that aside, and apart from
23 that, are you aware that Detective Guevara has invoked
24 his Fifth Amendment right to remain silent in response
25 to questioning about his work as an Area 5 detective?

1 MR. BRUEGGEN: Objection. Form. Go ahead.

2 A Yes.

3 Q Okay. And how did you learn that?

4 A From my debriefings on other matters that I'm
5 an accused of -- his work.

6 MR. BRUEGGEN: Let's clarify that. Bob, are
7 you -- don't tell them anything you talked to any
8 attorneys about in any other cases. When you say
9 "debriefing", do you mean from other cases that you
10 did depositions in?

11 THE WITNESS: Yeah.

12 MR. BRUEGGEN: Okay.

13 THE WITNESS: The, the depositions I sat on,
14 it was indicated during those depositions that that
15 had occurred.

16 BY MR. HAZINSKI:

17 Q Okay. Did you ever see any media reports,
18 like, news coverage or newspaper articles about
19 Detective Guevara in, let's say within the last five
20 years?

21 A I don't recall specifically yes, but I'm sure
22 I have.

23 Q Okay. So does knowing that Guevara has
24 invoked his Fifth Amendment rights not to answer
25 questions about his police work because the answers

1 might incriminate him, does that affect your opinion
2 about the quality of his police work at Area 5?

3 MR. BRUEGGEN: Objection. Form. Vague.

4 A No.

5 Q Okay. Why not?

6 A With my experience with Rey, he did a -- a
7 real good job at Area 5.

8 Q Okay. Does the fact that Guevara has now
9 taken the Fifth Amendment, in response to questioning
10 about his police work, cause you to question whether you
11 should have supervised him differently or more closely
12 at Area 5?

13 MR. BRUEGGEN: Objection. Form. Compound.
14 Speculation.

15 A My supervisory responsibility in Area 5 with
16 Rey Guevara was limited as to the time I worked at
17 different watches with him, and most of our encounters
18 were short and -- and brief.

19 Q Okay. So with respect to my question, do you
20 have any regrets or concerns about the quality of your
21 own supervision of Rey Guevara at Area 5?

22 MR. BRUEGGEN: Objection. Form. Compound.
23 Speculation. Go ahead.

24 A I have no regrets on my supervisory of the
25 times that I had contact with Rey Guevara at Area 5.

1 Q Do you have any regrets at all about your
2 supervision of any other officers at Area 5?

3 MR. BRUEGGEN: Objection. Form. Vague.
4 Speculation. Go ahead.

5 A Not that I can think of at this time.

6 MR. BRUEGGEN: John, are you switching topics?
7 Or --

8 MR. HAZINSKI: I am.

9 MR. BRUEGGEN: I'm just looking for a break
10 whenever it's convenient, if now works before you
11 get to a new topic.

12 MR. HAZINSKI: Okay.

13 MR. BRUEGGEN: All right. Stay for place.

14 COURT REPORTER: Okay. We are --

15 MR. BRUEGGEN: Couple minute stretch.

16 COURT REPORTER: -- off record. We're off the
17 record. The time is 12:05.

18 (OFF THE RECORD)

19 THE WITNESS: It's in a different box again.

20 COURT REPORTER: We are back on the record.
21 The time is 12:13.

22 BY MR. HAZINSKI:

23 Q Okay, Mr. Biebel, before I move on, I just
24 wanted to ask. So you mentioned that from your
25 perspective as a supervisor, Rey Guevara benefited from

1 his connections to the community that he lived in and
2 his ability to speak Spanish, among other things.

3 Well, I guess let me ask this professional
4 question.

5 Do you ever -- were you ever responsible for
6 assigning Rey Guevara to a case?

7 A Assigning him what, please?

8 Q To a case.

9 A I don't remember. I'm sure I did.

10 Q Okay. If a case came in where the ability to
11 speak Spanish or connections to the community that
12 Guevara lived in might have been helpful, would that
13 have affected your decision about whether to assign him
14 to that particular case?

15 A Like I said before, most of the time, our --
16 our professional dealings was in passing because we
17 worked different watches. So if on the second watch I
18 had a Spanish speaker, I don't believe I had any on the
19 second watch, perhaps I would use -- whoever -- whomever
20 I send would have to deal with the -- with the local
21 police or the local district -- those who speak it the
22 language.

23 Q Sorry. I think I didn't hear the last couple
24 words of your answer. Could you just say the very end
25 of it again, please?

1 A If I sent somebody on a Spanish-speaking case
2 while I was working, and I had nobody to send that spoke
3 Spanish, I would have them communicate through whatever
4 police officers might be on the scene of that specific
5 case were we were sending them.

6 Q Okay. You also supervised Detective Ernest
7 Halverson at Area 5, right?

8 A In the same way I supervised Rey Guevara.

9 Q Okay.

10 A We worked different watches, and our -- it was
11 usually casual passings and -- and really had nothing
12 professional because I -- chances are I was probably
13 gone when they came -- came into work.

14 Q Okay. Were you ever friends with Ernest
15 Halverson outside of work?

16 A I wouldn't say friends. We were
17 acquaintances. And, again, if there was a unit party or
18 something, I would be at the same party as he.

19 Q Okay. Do you recall the last time you spoke
20 with Ernest Halverson?

21 A That was at a meeting? I was -- I was at the
22 lawyer's a few -- about a month before he passed.

23 Q Okay. And did you have any conversations with
24 Ernest Halverson at that point outside of the presence
25 of your lawyers?

1 A No.

2 Q Okay. Did you attend any funeral or memorial
3 service for Detective Halverson when he died?

4 A I'm sorry, but I couldn't do it. My -- my
5 mother-in-law passed away the same day.

6 Q Oh, I'm sorry to hear that. So even though
7 Detective Halverson worked a different watch than you at
8 Area 5, did you have occasion to review and approve
9 police reports that he wrote as a sergeant?

10 A Yes.

11 Q Okay. In the process of reviewing and
12 approving Detective Halverson's police reports, did --
13 were you able to form any opinion about his police work?

14 A Yes.

15 Q And what opinion was that?

16 A He was a good policeman.

17 Q Okay. What were his strengths as a policeman?

18 A Typing. He was -- he was -- he was
19 professional in everything he said and did.

20 Q There's an old joke about someone who writes
21 you a recommendation letter, and the thing they say is
22 if they have really good handwriting, that's a really
23 bad sign. When you compliment Ernest Halverson's
24 typing, is that to denigrate any other aspect of his
25 police work?

1 A No, but he seemed to be the -- the -- the
2 typist in that -- in that team of his.

3 Q Okay. Was Rey Guevara able to type reports?

4 MR. BRUEGGEN: Objection. Foundation, if you
5 know.

6 MS. BARBER: Objection. Form.

7 THE WITNESS: I had read -- I read reports
8 typed by Rey Guevara in the past.

9 BY MR. HAZINSKI:

10 Q Okay. And when you said, "Detective Halverson
11 was the typist in that group of his", what group are you
12 referring to? Or maybe you said team.

13 A I said team.

14 Q Team.

15 A I said team, and his team is Rey Guevara and
16 Ernie Halverson.

17 Q Okay. So it's just the team of two?

18 A Team of two.

19 Q At Area 5, did you supervise Detective Steven
20 Garris?

21 A Yes.

22 Q Okay. Did he work the same watch as you?

23 A He did, yes, and I think he worked third watch
24 for a while, too. I'm not real sure. But, yes, he
25 worked with me on days.

1 Q Did you supervise Steven Garris as a Sergeant
2 in gang crimes, as well?

3 A Yes.

4 Q Okay. From supervising Steven Garris in gang
5 crimes and later at Area 5, did you have an opportunity
6 to form an opinion about the quality of his police work?

7 A Yes.

8 Q And what opinion is that?

9 A He was very good at what he did.

10 Q What were his strengths as a police officer
11 and a detective?

12 A Communication skills. His attitude, his
13 professionalism. And he had good handwriting.

14 Q Did you supervise Anthony or Tony Riccio at
15 Area 5?

16 A Yes.

17 Q Okay. Did you work with Detective Riccio
18 professionally before Area 5 at any point?

19 A He was in gang crimes, I think, but he left --
20 I left before he got there. So I think Area 5 was the
21 first place I encountered Anthony Riccio.

22 Q Okay. Were you ever friends with Riccio
23 outside of work?

24 A No.

25 Q Okay. Did you ever socialize with him beyond

1 the, you know -- so you mentioned some kind of social
2 gatherings with folks from Area 5?

3 A I don't recall ever being at retirement
4 parties or the like with Tony Riccio.

5 Q Okay. And do you know if you worked the same
6 shift as Riccio?

7 A He was a day watch guy for a while, but my
8 understanding, he was working third watch once now and
9 then, so, yeah, he normally was a day guy.

10 Q Did you have the opportunity to form an
11 opinion about Riccio's work as a detective?

12 A Yes.

13 Q And what opinion is that?

14 A He was good detective.

15 Q What were his strengths as a detective?

16 A His professionalism, his attitude. The way he
17 carried himself. He was always well-dressed.

18 Q While you were a sergeant at Area 5, did you
19 ever learn or come to believe that Halverson, Garris, or
20 Riccio ever engaged in any type of misconduct?

21 MR. BRUEGGEN: Object to form. Go ahead.

22 A No.

23 Q Okay. While you were a Sergeant at Area 5,
24 did you ever learn or come to believe that any detective
25 you supervised engaged in any kind of serious

1 misconduct?

2 MR. BRUEGGEN: Object to form. Compound.

3 Go ahead.

4 A The word "serious" is what? What -- meaning
5 what?

6 Q Let's say while you were a sergeant at Area 5,
7 did you ever learn or come to believe that any detective
8 you supervised had committed a fireable offense?

9 A No.

10 MR. BRUEGGEN: Object to form.

11 A I'm sorry. No.

12 Q While you were a sergeant at Area 5, did you
13 ever learn or come to believe that any detective you
14 supervised committed a felony in the course of their
15 police work?

16 A No.

17 Q You said that you had three meetings to
18 prepare for this deposition, and that those meetings
19 were, you estimated, about three hours each, right?

20 A Yes.

21 Q Before you started that preparation, did you
22 have any recollection of the Monica Roman homicide
23 investigation?

24 A When -- when I made -- was made aware of the
25 -- I -- my -- the -- this investigation when I was

1 served with civil papers regarding this matter.

2 Q Okay. And when you received those civil
3 papers, did you remember anything about any events back
4 in 1993 relating to that investigation?

5 A No.

6 Q Okay. So I understand you've done a lot of
7 review and looked at documents and had meetings to
8 discuss the case, but I want to ask you about your
9 independent recollections, which what I really mean is
10 things you remember apart from reviewing the documents.
11 And so did the process of reviewing documents or
12 discussing the case in preparation for this deposition
13 bring back any independent memories of this
14 investigation, beyond what is noted on the
15 documentation?

16 MR. BRUEGGEN: Object to form. Go ahead.

17 A No.

18 Q No. Do you have an independent memory of any
19 communications or conversations you had with anyone
20 about the Roman homicide investigation in 1993?

21 A No.

22 Q Would it be fair to say that everything you
23 can testify to about the details of this investigation
24 that happened in 1993 come from your review of reports
25 and documents, as opposed to your independent memory?

1 MR. BRUEGGEN: Object to form. Vague and
2 misstates the testimony so far. Go ahead.

3 A Everything I reviewed on the paper is what I
4 know about this Roman homicide.

5 Q Okay. So Mr. Biebel, I'd like to show you a
6 document now. And so for Counsel, for the record, I
7 guess we'll make this Exhibit 1, and it's the report
8 produced at RFC 90 through 93. And Mr. Biebel, what I'd
9 like to do is to share my screen with you to show you
10 this report.

11 (EXHIBIT 1 MARKED FOR IDENTIFICATION)

12 MR. BRUEGGEN: And, John, did you send over
13 the exhibits?

14 MR. HAZINSKI: I didn't.

15 MR. BRUEGGEN: Or special --

16 MR. HAZINSKI: What we did on Wednesday is
17 they were all just from the investigative and the
18 RD file, and so there's nothing surprising, and the
19 same is true here, so if you need time to pull them
20 up, that's okay. We can do that.

21 MR. BRUEGGEN: No, I've got it --

22 MS. BARBER: Are you saying --

23 MR. BRUEGGEN: -- on big screen, but I also
24 have a hard copy.

25 MR. HAZINSKI: Okay.

1 MR. BRUEGGEN: Sorry. Go ahead.

2 MS. BARBER: Are you saying, basically, you're
3 using the -- probably going to use the exhibits
4 that were used on Wednesday?

5 MR. HAZINSKI: They'll be -- largely.

6 They'll -- there'll be some different ones,
7 but, no, I'm just saying like they're documents we
8 all have, so we can just -- I can share my screen
9 and we can look them together, and then if folks
10 need a chance to pull them up, I'll just give you
11 the Bates and we can all --

12 MS. BARBER: Yeah, we can just take all --
13 take -- for me -- on my purposes, we can just go
14 and see how it goes, but, yeah, I might need some
15 time to pull it up.

16 MR. HAZINSKI: Yeah. And just let me know.

17 MS. MCGRATH: Same here.

18 BY MR. HAZINSKI:

19 Q So the first thing is going to be RFC 90
20 through 93, which is like the clear closed report.

21 And so Mr. Biebel, I'm going to share my
22 screen with you. This will take me just a short second.

23 A Like, right now -- okay, trying to find some
24 --

25 Q We'll be looking at the same thing.

1 MR. BRUEGGEN: He's got a large screen that it
2 should pop up on, so it should be more --

3 MR. HAZINSKI: Uh-huh.

4 MR. BRUEGGEN: -- legible once you share.

5 MR. HAZINSKI: Okay.

6 MR. BRUEGGEN: So can you see that?

7 THE WITNESS: Yes. Okay.

8 BY MR. HAZINSKI:

9 Q All right. So Mr. Biebel, is -- do you
10 recognize this as one of the documents you reviewed in
11 preparation for your deposition today?

12 A Yes.

13 Q Okay. And could you describe what type of
14 document this is?

15 A It's a clear closing sup submitted on the case
16 of Roman Monica UCR Code 0110.

17 Q And on the bottom right of the first page of
18 this document, is that your signature written there?

19 A Yes.

20 Q Okay. And was your star number 1545?

21 A In 1993, that was my star number.

22 Q Okay. It changed at some point?

23 A When I was promoted.

24 Q Okay. And looking still at that bottom right
25 corner, it has a date and time. A date of June 25,

1 1993, and time of 09:20; do you see that?

2 A Yes.

3 Q Does that reflect the time when you signed off
4 on the report?

5 A Yes.

6 Q Okay. When you were approving reports as a
7 Sergeant at Area 5, did you always make sure to note the
8 correct date and time when you signed reports?

9 MR. BRUEGGEN: Object to form. Go on, sir.

10 A Yes.

11 Q Now, do you have any independent memory of
12 reviewing or signing this report back in 1993 when it
13 crossed your desk?

14 A I have no memory of that at 1993. I do not
15 recall it.

16 Q Okay. Is it fair to say that there are times
17 as an Area 5 sergeant you reviewed a large number of
18 cleared closed reports that were submitted to you by
19 detectives?

20 A Yes.

21 Q Okay.

22 A I also signed non -- non-cleared closed files
23 too, while I was in Area 5 --

24 Q Right.

25 A -- so then -- okay, so just to clarify that

1 point.

2 Q Sure. So based on your familiarity with this
3 type of report, what's your understanding of the kind of
4 information that detectives in 1993 were expected to
5 include in a cleared closed supplementary report?

6 MR. BRUEGGEN: Objection. Form, incomplete
7 hypothetical. Go ahead.

8 A There was a form set that there -- where they
9 used to follow onto how to do a report, and you'd
10 identify the victim, identify the offenders, conditions,
11 date, time of occurrence. I -- I think it's motive,
12 interviews and other stuff I might have omitted but, in
13 general, that's about what these things did in -- in a
14 matter of the form set.

15 Q Okay. When you were reviewing cleared closed
16 reports as a sergeant at Area 5 in this period around
17 1993, if you observed that one of those categories of
18 information you just listed was missing from the report,
19 would that lead you to withhold its approval?

20 MR. BRUEGGEN: Objection, form. Go ahead.

21 A It's not necessarily so. We could just -- if
22 -- if something's missing, I could -- I could sign off
23 on it, depending on the circumstances of a person that
24 day, and have them complete another supplementary report
25 that -- and put additional information on it. Same form

1 set, the supplemental report, the CPD form, and submit
2 it as a supplement to the cleared closing.

3 Q Okay. Did cleared closed reports that you
4 reviewed at Area 5, did they typically summarize the
5 course of the criminal investigation?

6 MR. BRUEGGEN: Objection. Form.

7 A Yes.

8 Q Okay. And on your understanding, as a
9 supervisor reviewing these reports, were cleared closed
10 reports supposed to identify all of the evidence that
11 the police had discovered implicating the defendant?

12 MR. BRUEGGEN: Objection. Form, incomplete
13 hypothetical. Go ahead.

14 A It summarizes their investigation.

15 Q Okay. And would the summary of the
16 investigation include a description of the evidence that
17 had been uncovered implicating the defendant?

18 MR. BRUEGGEN: Object to form.

19 A If -- if it's -- if it's identified somewhere
20 else, they could refer to it by inventory number, but
21 chances are it -- it would be on the report that they --

22 Q Okay.

23 A -- would submit.

24 Q All right. Now, on the first page of this
25 report, we're still looking at RFC-IGLESIAS 90, you see

1 it has the names of Officers or Detectives Halvorsen,
2 Guevara, Riccio, and Daris, correct?

3 A Yes.

4 Q Okay. From looking just at the first page of
5 this report, are you able to tell who typed it up?

6 A Can I tell -- I -- Ernie Halvorsen probably
7 typed it because his first name is in the box, the first
8 box.

9 Q Okay, so the fact that his is the first of the
10 four names listed there leads you to suspect that it was
11 likely Halvorsen who typed this up?

12 A That's his -- that's his signature, and that's
13 the only signature on that page.

14 Q Okay, so it's both -- it's -- are you saying
15 it's both the fact that his is the first name in the top
16 left box of the signatures, and the fact that his pen
17 signature is there, lead you to believe that he's the
18 one who typed it up?

19 A Yes.

20 Q Okay. And Detectives Guevara, Riccio, and
21 Daris did not sign the first page of this report in pen,
22 correct?

23 A Correct.

24 Q From your perspective as a supervisor at
25 Area 5 in 1993, was that permitted for just one officer

1 to sign?

2 A I don't -- I don't remember the policies and
3 -- and so it had one signature on it. Why they didn't
4 sign it is beyond me and I never asked a question why it
5 wasn't signed.

6 Q Okay. And I want to scroll down now to the
7 next page, which is RFC 91, and just ask you a quick
8 question on this page. So at the very top there's some
9 information. You know, on the left it says Detective
10 Division Area 5 Violent Crimes, then the number two, and
11 then over on the right, 24 June, 1983 RD number
12 X-250303. Do you see that?

13 A Yes.

14 Q Okay. And that information on the top right
15 with the date and the RD number, were detectives
16 required to include that information on the top of the
17 pages of the supplementary reports that they typed up?

18 MR. BRUEGGEN: Object to form, foundation.

19 Go ahead.

20 A It's not required but it indicates an RD
21 number, and that's -- and that's really what we're star
22 -- this is -- this is a computer-generated report that
23 I'm looking at. The previous one was a typewritten
24 report.

25 Q When you say the previous one, do you mean the

1 previous page we were looking at?

2 A The one we just talked about before that 90 --
3 90 or whatever it was. Quote stuff.

4 Q Okay, so I'll just -- I'm going to scroll up.

5 A The previous page, yeah.

6 Q Yeah.

7 A You're going down to it now. That's -- that
8 is a typewritten report. A typewriter was used to fill
9 that report out.

10 Q I see, and then I'll scroll down to the next
11 page, RFC 91, and this, you're saying, was prepared on a
12 computer, not on a typewriter, correct?

13 A On a word processor. Now, whether it was a
14 computer, I don't know. 1993, we were going through
15 changes as to word -- word processors versus
16 typewriters.

17 Q Okay. Since this was prepared -- this page of
18 this report was prepared on a word processor, does that
19 mean that this information on the top right with the
20 date and the RD number was generated automatically?

21 A Yes.

22 Q Okay. I want to show you another document
23 now, and just for the record and for Counsel, I guess
24 we'll make this Exhibit 2, and it's the lineup report at
25 the Bates range RFC 97 to 98. Mr. Biebel, are you able

1 to see this document here?

2 (EXHIBIT 2 MARKED FOR IDENTIFICATION)

3 A Yes.

4 Q Okay. Do you recognize this as one of the
5 reports that you reviewed in preparation for your
6 deposition?

7 A Yes.

8 Q Okay. And on the bottom right of this page,
9 is that your signature?

10 A Yes.

11 Q And it indicates that you approved this report
12 at 9:35 a.m. on June 25, 1993; is that right?

13 A Yes.

14 Q Okay. And but the date of the report, the
15 date this report's submitted, is noted as June 23, 1993,
16 right?

17 A Yes.

18 Q Okay. From looking at the first page of this
19 report, are you able to tell who prepared it?

20 A Yes.

21 Q And who's that?

22 A Tony Riccio.

23 Q Okay. And how do you know that?

24 A That's his signature.

25 Q Okay. The signatures -- the pen signatures of

1 Detectives Halvorsen and Guevara also appear on this
2 page, correct?

3 A Yes.

4 Q Okay. Given that there's three different pen
5 signatures for these detectives, how do you know that it
6 was Riccio that wrote this report?

7 A Says Tony Riccio signed -- he's in the first
8 box.

9 Q Okay. Above Detective Guevara's name, where
10 that the name is written in pen, based on your --

11 A Uh-huh.

12 A -- familiarity and experience reviewing
13 reports at Area 5, do you recognize whether that's
14 actually Guevara's signature?

15 MR. BRUEGGEN: Object to foundation.

16 Go ahead.

17 A I don't believe that's his signature, no.

18 Q Okay.

19 A That's his name. That's not -- I don't think
20 that's his signature.

21 Q Okay. Similarly, with respect to the
22 Halvorsen signature, do you believe that to be Detective
23 Halvorsen's own signature?

24 A That's his name, but I don't believe that's
25 his signature.

1 Q Okay. Hypothetically, if Detective Riccio
2 signed the names Halvorsen, Guevara above their
3 typewritten names, was that appropriate as a matter of
4 policy at Area 5 in 1993?

5 MR. BRUEGGEN: Objection. Form, incomplete
6 hypothesis.

7 A Is my opinion that Ernie Halvorsen and Guevara
8 okayed Tony Riccio to put his -- their names on there,
9 signed -- signed for them.

10 Q Okay. And what makes you think that they
11 okayed it?

12 A It's my professional opinion.

13 Q Okay. Was that a commonplace thing when
14 reports were being prepared at Area 5 for one detective
15 to okay another to sign it on their behalf

16 MR. BRUEGGEN: Object to form.

17 A From my experience, that reports are -- are
18 signed -- normally signed by the prepared person with
19 the permission of the partners, which signed the
20 partner's name. That's -- that's on general offense
21 case reports that are submitted at a district level at
22 that time, and -- and in some cases, the supplementary
23 reports at the area.

24 Q Okay. I want to show you the next page of
25 this document which is RFC 98. So I've scrolled down

1 now to the second page.

2 A Okay.

3 Q This report documents a lineup procedure that
4 occurred at Area 5 in the viewing room at 8:00 p.m. on
5 June 23, 1993; is that correct?

6 A Yes.

7 Q Were you present at Area 5 when that lineup
8 took place?

9 A Was I there when the lineup happened, or was I
10 assigned to Area 5 on that date?

11 Q Were you there when the lineup happened?

12 A No.

13 Q How do you know?

14 A I worked the day watch. I -- probably I was
15 off at 3:00 in the afternoon.

16 Q Okay. Other than what's documented in this
17 report and any other reports you reviewed describing the
18 events of this lineup, do you have any knowledge about
19 what actually occurred at Area 5 during this lineup
20 procedure?

21 A No.

22 Q Okay. And so -- and this report specifically
23 says that the lineup occurred at 2000 hours or 8:00 p.m.
24 In your experience reviewing and approving these
25 reports, were detectives supposed to note the time when

1 the lineup occurred?

2 MR. BRUEGGEN: Objection. Form.

3 A That's part of the -- the -- the -- the form
4 set that they -- they're asked to fill out on something
5 like this.

6 Q Okay. If you were reviewing a report -- a
7 lineup supplementary report that had no information in
8 it about when the lineup took place, would you have
9 approved that report?

10 MR. BRUEGGEN: Objection. Form, incomplete
11 hypothetical, vague.

12 A If I noticed it, I probably would say,
13 "Clarify it." If not, would've just been a -- a bypass
14 or something I missed.

15 Q Was the time information about when a lineup
16 took place the kind of detail you were looking for
17 carefully when you reviewed reports to approve them?

18 MR. BRUEGGEN: Objection. Form, vague.

19 Go ahead.

20 A I read a report. I didn't look specifically
21 for times of occurrence and dates. I read a report and
22 -- and then approved on it.

23 Q Okay. Do you have any understanding of why
24 the default form set for a lineup supp required
25 detectives to note the location, date, and time of the

1 lineup?

2 MR. BRUEGGEN: Object to foundation, form.

3 Go ahead.

4 A That's the suggested format that they learned
5 while they were in the -- detective school. I think
6 that's part of -- of that thing we talked about earlier,
7 about is the -- is the -- the detective handbook on how
8 to do reports.

9 Q Okay. I want to direct you now a little lower
10 on the page to the investigation section of this report,
11 and it's the paragraph that starts, "In furtherance of
12 the investigation." Do you see that paragraph?

13 A Yes.

14 Q Okay, so then the third sentence of the
15 paragraphs says, "All participants were required to
16 stand, face the viewing window, and make facing
17 movements." Do you see that?

18 A Yes.

19 Q Okay. What are facing movements?

20 A Probably moving their head. I -- I -- I don't
21 know exactly what that means.

22 Q Okay. Is that a term that you were familiar
23 with from your work at Area 5?

24 A I -- I believe I've seen it in the past.

25 It's movement of changing the faces. I just -

1 - I think it's self-explanatory in my mind. That's
2 probably why I never questioned it.

3 Q Maybe I'm just missing what it's refers to,
4 but could you -- would you be able to demonstrate for me
5 what a facing movement is?

6 A No. It's -- it's -- they're probably made to
7 move their -- my -- my assumption in reading this is
8 that turn to the left, move your head to the right, move
9 your head to the left, which I --

10 Q Okay.

11 A -- just did.

12 Q Facing different directions, you mean?

13 A Right, so you get a -- a profile view on each
14 side.

15 Q I see. Okay. So I want to show you now, and
16 I guess this will be Exhibit 3 if my numbering is right,
17 another lineup report. For the record it's RFC 94
18 through 96. Mr. Biebel, are you able to see this report
19 that I put on the screen?

20 (EXHIBIT 3 MARKED FOR IDENTIFICATION)

21 A That's not a lineup report, I don't think.

22 Q Well, let's see. So --

23 A The one you got up on the screen is not -- not
24 a lineup report.

25 Q Okay. Well, I'll scroll down here, and we'll

1 look at the second page. RFC 95. Do you recognize this
2 to be a line report?

3 A Yes, because it says, "This is a lineup
4 supplement."

5 Q Okay, but from your review looking at the
6 first page, it appears not to be a lineup report,
7 correct?

8 A I -- it usually would say that a lineup report
9 here on the first line of the narrative, but based on
10 which the second page would tell me it's a lineup
11 report.

12 Q Okay. Is this one of the reports that you
13 reviewed in preparation for your deposition today?

14 A Yes.

15 Q And, once again, is that your signature
16 appearing on the bottom right of the first page?

17 A Yes.

18 Q And it indicates that you signed off at
19 9:40 a.m. on June 25, 1993, correct?

20 A Yes.

21 Q The report notes that it was submitted on June
22 23, 1993, at 9:00 p.m.; is that right?

23 A Yes.

24 Q Okay, so I'm going to scroll down to the next
25 page, which is RFC 95, and this notes that the lineup

1 procedure took place in Area 5 viewing room on
2 June 24, 1993, at 01:25 hours, correct?

3 A Yes.

4 Q Okay. And that's 1:25 a.m. obviously, right?

5 A Yes.

6 Q Were you present at Area 5 when this lineup
7 took place?

8 A No.

9 Q Okay, again this was outside of your shift,
10 correct?

11 A Yes.

12 Q Okay. Other than what's written in this
13 report of this lineup and other reports describing this
14 lineup, do you have any knowledge about what actually
15 occurred in this particular lineup?

16 A No.

17 Q Okay. So -- and this is a report of a lineup
18 procedure that occurred on June 24, 1993, but the report
19 itself as we saw on page 94 is dated June 23rd. Do you
20 agree that those two dates are inconsistent?

21 A You got to check the form.

22 Q At least one of those dates has to be wrong,
23 doesn't it?

24 A Yes. My guess is the first one, because it's
25 a typewritten report. The second one is a form -- form

1 report, did on a word processor.

2 Q Okay. So why does the fact that it's
3 typewritten versus being a word processor make you think
4 that it's more likely that the typewritten page has the
5 mistake?

6 A Because they -- my guess is they used the
7 previous submitted supplementary. This is the
8 typewritten one, and -- and -- and probably photocopied
9 it because they didn't have to retype it. That's my
10 opinion. So it already had the bottom filled out.

11 Q This report was signed by at -- has -- or, at
12 least it has the names of Riccio and Halvorsen at the
13 bottom, correct?

14 A Yes.

15 Q This one does not have Detective Guevara's
16 name listed on the bottom of the first page, right?

17 A Right.

18 Q Okay. Does that affect your thinking about
19 whether it was just photocopied from another report?

20 A I -- I believe it was a photocopy of another
21 report.

22 Q Okay.

23 A But I could be wrong.

24 Q Now, I want to scroll down to the third page
25 of this report, which is page 93 - or, I'm sorry, page

1 96. And this is -- has the names of Detectives
2 Halvorsen, Guevara, and Riccio listed, correct?

3 A Let me guess. I don't have it -- yes.

4 Q Okay, and what date is written on the top
5 right of this page?

6 A Let me go to it. It says 22 February.

7 MR. BRUEGGEN: Tell him if you want to go up
8 and he'll direct you.

9 A It's -- it's -- I don't know how you got that.
10 That's -- that's a -- that's a different RD number.

11 Q Right. Fair to say that this is not the
12 correct third page of this report?

13 MR. BRUEGGEN: Object to foundation, form.
14 Go ahead.

15 A It's a possibility it's not the same form.
16 I don't know. It's a whole different RD
17 number.

18 Q Was that discrepancy something you noticed
19 when you were reviewing this report in 1993?

20 MR. BRUEGGEN: Objection. Form.

21 A I don't even know if this would --

22 MR. BRUEGGEN: Assumes facts not in evidence.

23 A I don't even know if that was in the file when
24 I signed the front page.

25 Q Okay. If this page was in the report that you

1 were reviewing and you had noticed that discrepancy,
2 would you have brought it to the attention of the
3 detectives?

4 A Yeah, because the February date stands out to
5 me.

6 Q Yeah, because that's almost four months, or
7 more than four months --

8 A Yeah.

9 Q -- before the lineup line it's documenting.

10 A Probably could be. So -- what it tells me
11 here is that, somehow, this got intermingled with that
12 and end -- ended up in this -- this file.

13 Q Okay. Is that unusual for -- in your
14 experience, for pages to get intermingled in that way?

15 MR. BRUEGGEN: Objection. Form.

16 A I don't recall it being like that at all.

17 I -- somehow there's a mix-up in here. They
18 put the wrong page in, or they intended -- you know, I
19 got -- I've got my -- they maybe wanted to change the
20 dates and the -- and the RD number. And I don't
21 remember ever seeing a page three with the -- with the
22 names that -- can you go back to the page before?

23 Q Sure.

24 A All right. That -- so it's a continuation
25 page. For some reason, whatever they did they put --

1 they -- they -- they were probably following -- filling
2 in a blank fill-in thing and forgot to change the RD
3 number on it, you know?

4 Q Okay.

5 A So I didn't see it. I don't remember seeing
6 it. Had I seen it, it would've been changed.

7 Q Okay. Now, and this is an example of another
8 page. The -- and now here, again, we're looking at RFC
9 95 that was prepared on the word processor, right?

10 A I -- it's my opinion it was a word processing
11 supp, yes.

12 Q Okay. And page 96, can you tell whether this
13 was created on a typewriter or a word processor?

14 A I don't know, but it looks like a regular
15 typewriter, but I'm not -- I can't -- I can't be
16 certain.

17 Q Okay. Is it possible that you were the person
18 who caused these pages from different cases to become
19 intermingled?

20 MR. BRUEGGEN: Object to speculation.

21 A I don't know how to answer that properly.

22 It's -- it's there. I don't who intermingled
23 it.

24 Could I have done it? I don't think I did,
25 but if it happened, I don't understand why a February

1 case would be in a file in June.

2 Q Yeah. I want to ask you now about another
3 report and this is -- well, I guess this will be
4 Exhibit 4 and this is RFC 163. Now, Mr. Biebel, is this
5 a report that you reviewed in preparation for your
6 deposition today?

7 (EXHIBIT 4 MARKED FOR IDENTIFICATION)

8 A Go down a little further. Oh, did I look and
9 see this? Yeah, it was in the file, yes.

10 Q Okay. Now there's a supervisor's signature
11 box with a signature in it, on the bottom right. Do you
12 see that?

13 A Yes.

14 Q And that's not your signature, is that?

15 A No, that's not my name either.

16 Q Right. And so do you know who --

17 A That's not my star number, either.

18 Q Right. Do you know whose name and --

19 A I guess it's --

20 Q -- star number that is?

21 A It's -- I believe it's Sergeant Kuhn.

22 Q Okay. And how did Sergeant Kuhn spell his
23 name?

24 A K-U-H-N.

25 Q And was Sergeant Kuhn another Area 5 sergeant

1 in 1993?

2 A He must be, because I'm looking at his
3 signature. He was -- he was with us for a while in
4 Area 5. I don't remember what years, but he must have
5 been there in 1993.

6 Q Okay. Do you know what shift he worked around
7 that time at Area 5?

8 MR. BRUEGGEN: Object to foundation.

9 Go ahead.

10 A I don't remember him in Area 5 in '93, but had
11 he been working in '93 which tells me by this report he
12 was on the third watch.

13 Q Okay. So apparently, according to the
14 information here, this was approved on the third watch
15 because of the time that's noted?

16 A Yes. It -- it was submitted on the midnight,
17 because it happened after 1:00 in the morning, or it
18 could be third watch, yeah.

19 Q Okay.

20 A That's one that -- this is -- this was signed
21 in order for the film to go down to the crime lab or
22 wherever it went.

23 Q Okay. And so this is a crime scene processing
24 report form, right?

25 A Well, this is a form called a crime system,

1 yeah. It's -- it's for photos of -- of a lineup and a
2 -- and a list of -- because the -- the -- the
3 identifiers on top tells you who -- who's on the bottom,
4 you know?

5 Q Yeah.

6 A Who stood the lineup.

7 Q And so what was the purpose of this type of
8 report?

9 A This is a report, it's like a -- a -- a mail
10 slip. This report went down with the film in the mail
11 that night or the -- whenever --

12 Q And so did you ever approve reports like this
13 one, crime scene processing report forms that documented
14 photos of participants in a lineup procedure?

15 MR. BRUEGGEN: Object to form. Go ahead.

16 A In my career, I'm sure I had.

17 Q Okay. And you said that this would be sent
18 along with the photos to a different section of the CPD?

19 MR. BRUEGGEN: Objection. Misstates his
20 testimony.

21 A That thing would -- that would be attached to
22 the film that went down to wherever the film processing
23 in -- in the crime lab, the crime --

24 Q Okay.

25 A -- scene, wherever it is.

1 Q And so do you recall in 1993 -- well, let me
2 back up. Looking at this page, are you able to tell
3 whether this is prepared using a typewriter?

4 A It looks like it's a typewriter-prepared form,
5 because we didn't have form filler in those days, so
6 they used the typewriter for most of these
7 department-issued forms in 1993.

8 Q Do you know -- in 1993, did crime scene
9 processing report forms, like this one, use carbon paper
10 that had different layers where you would write on the
11 top and it would make impressions below?

12 A Yeah, I -- I -- see, I'm not really familiar
13 with this form itself, but my guess is that that's
14 possible, yes.

15 Q Okay.

16 A Because the -- the front page -- go -- can you
17 scroll down a little bit?

18 Q Yes.

19 A Okay, let's see. No, usually it'll tell you
20 -- I -- I don't know if there's a -- this is a form set
21 or this could be a regular form, so I'm not sure.

22 I -- I don't remember seeing -- I -- I've
23 never -- never dealt with these forms that -- that I can
24 recall, but I think it might be a single page.

25 Q This is a -- this is signed by Detective

1 Halvorsen, right?

2 A That's his name, yeah.

3 Q Do you recognize that pen signature to be

4 Detective Halvorsen's signature?

5 MR. BRUEGGEN: Object to foundation.

6 Go ahead.

7 A My professional opinion, that's not his

8 signature.

9 Q Okay. Do you have any information or

10 knowledge that would allow you to determine who signed

11 that, if not Detective Halvorsen?

12 A No, sir.

13 Q Okay. So -- and then it documents in the

14 boxes that say date arrived, time and time completed; do

15 you see those boxes near the bottom right?

16 A Bottom right says date arrived, okay.

17 Q Right, and it says 24 June, 01:20, and

18 01:25 in those boxes, correct?

19 A Yes, that's what it says.

20 Q And do those boxes -- based on your

21 understanding, are those supposed to document when the

22 lineup began and when it concluded?

23 MR. BRUEGGEN: Object to foundation.

24 A I don't know what they mean because it's --

25 it's confused. This is -- because it's a crime scene

1 report, that's usually when they come onto the scene of
2 a -- in progress or a -- a fresh scene, this is the
3 lineup report. Those -- those numbers in my mind are
4 meaningless, those times, the time arrived. This is
5 basically for the technician, the crime technician or
6 crime lab person who would do that.

7 Q So when you say they're meaningless, are you
8 saying they have nothing to do with the rest of the
9 report?

10 MR. BRUEGGEN: Object to foundation. Misstates
11 testimony.

12 A My belief is it's -- it -- the 120 might mean
13 when the -- when the film got into the hands of Sergeant
14 Kuhn, he put the 120, and then after he secured the
15 package to send downtown, it was 125. These are general
16 numbers.

17 Q Okay. I want to go back and show you the
18 report we were just looking at, which we had called
19 Exhibit 3, and go back up to the second page. And this
20 documents a lineup occurring on June 24, 1993, at 0125
21 hours at Area 5; do you see that?

22 A Yes.

23 Q Does that provide any information to you or
24 clarify to you at all the significance of the date and
25 time information on the crime scene processing report we

1 were just looking at?

2 A I -- I -- after I seen Sergeant Kuhn's
3 signature, 125 is the time that the -- this -- this
4 thing ends. At 125 in there. I can't answer for him.
5 I'm just -- I could guess. I could have an opinion, but
6 that is when the -- the viewing took place.

7 Q Okay. So I want to show you now another
8 report and this will be Exhibit 5, and it's a report
9 produced at RFC 16. Are you able to see this page?

10 (EXHIBIT 5 MARKED FOR IDENTIFICATION)

11 A I can see it. Yes.

12 Q Okay. Does this appear to you to be a carbon
13 paper copy?

14 A It's -- it's possible. I'd say yellow.

15 I don't know if it's carbon. No, it does --
16 it could be.

17 Q Okay. Do you recognize --

18 A I'm not familiar with it. I -- I'm not
19 familiar with a crime scene processing report. I really
20 -- the -- the -- a plain one, I don't know what they
21 look like. We didn't use them that often, except for
22 our lineups.

23 Q Similar to the one we just reviewed, can you
24 tell whether this was prepared on a typewriter or a word
25 processor?

1 A I guess it was done on a typewriter.

2 Q Okay. And this one bears Sergeant Halverson's
3 name, right?

4 A Yes.

5 Q Okay. And it has the same signature as the
6 one we just looked at, right?

7 A Yes.

8 Q Okay. And again, you don't believe that to be
9 Detective Halverson's own signature, correct?

10 A It's my opinion it's not his signature.

11 Q And this copy of the report also has Sergeant
12 Kuhn's signature in the supervisor signature box, right?

13 A Yes.

14 Q Okay.

15 A I think the same thing.

16 Q On this copy of the report, the boxes that say
17 date arrived, time, and time completed are empty, aren't
18 they?

19 A Yes.

20 Q Okay. Those same boxes are filled in on the
21 version of this report at RFC 163 that we were looking
22 at a moment ago, right?

23 A Yes.

24 Q Okay. Based on your understanding of the
25 policies in place in 1993, would it have been

1 appropriate for a detective to submit a report like this
2 for supervisor approval, and then after the fact, go
3 back and fill in time information?

4 MR. BRUEGGEN: Object to form. Assumes facts
5 not in evidence, and incomplete hypothetical.

6 A I don't remember what the policy would be at
7 that time.

8 Q Okay. So nothing that you can recall would
9 prohibit an officer or a detective from submitting a
10 report with that information blank, and then filling in
11 and after the fact?

12 MR. BRUEGGEN: Objection. Form. It's
13 misrepresenting the record.

14 A Please repeat the question. Thank you.

15 Q No policy that you're aware of would've
16 prohibited a detective from submitting a report like
17 this for approval, obtaining a supervisor signature, and
18 then going back and filling in the date and time
19 information after the fact?

20 MR. BRUEGGEN: Same objections.

21 A I wouldn't have done it.

22 Q Would it been consistent with policies as you
23 understood it?

24 MR. BRUEGGEN: Objection. Asked and answered.
25 Form. Assumes facts not in evidence.

1 A I'm not aware of the policy. I'm not -- I
2 don't remember the policy at that time, as I never - or,
3 I very seldom or even ever dealt with crime scene
4 processing reports.

5 Q Okay. Do you have any firsthand knowledge
6 about when or how this report was created?

7 A No.

8 MR. HAZINSKI: Okay. I am nearing the end and
9 I just want to take a quick break to review before
10 I wrap up. Is that okay with everybody if we take
11 a break?

12 MR. BRUEGGEN: Not a problem, John. How long
13 do you want?

14 MR. HAZINSKI: 10 -- let's say 10 minutes.

15 MR. BRUEGGEN: Sounds good.

16 COURT REPORTER: Okay. We are off the record.

17 The time is 1:10.

18 (OFF THE RECORD)

19 COURT REPORTER: We are back on the record.

20 The time is 1:24.

21 BY MR. HAZINSKI:

22 Q All right. Thanks for your time today,
23 Mr. Biebel. I have a few, kind of wrap-up questions
24 before we finish. Before I ask those, I want to circle
25 back to a couple points from earlier in the deposition.

1 So I was asking you earlier today about whether you had
2 any role in ensuring that detectives put notes and
3 reports into investigative files. And I believe you
4 testified that it was a detective's responsibility to
5 make sure that those got placed in the investigative
6 file; do you recall that?

7 MR. BRUEGGEN: Object to form.

8 A Yes.

9 Q Was there -- as far as you know, in 1993, was
10 there any other sergeants or other supervising officer
11 in Area 5 who was responsible for making sure that the
12 detectives put notes and reports into investigative
13 files?

14 MR. BRUEGGEN: Object to foundation, form.

15 Go ahead.

16 A I don't recall anybody specifically assigned
17 to that matter. I'm sure it could happen, but somebody
18 whose sole responsibility is to -- to maintain the
19 investigative files was all in the hands of the --
20 usually the detective assigned to the matter.

21 Q Okay. You say it could happen. What are you
22 referring to?

23 A Yes.

24 Q But like, what do you -- when you say you
25 believe it could happen, that someone --

1 A That a sergeant -- that a sergeant can do
2 that, yes.

3 Q Okay.

4 A There was other sergeants besides myself who
5 worked in Area 6 -- or, Area 5 in those days.

6 Q Okay. And so you're saying it's possible that
7 other sergeants took on that supervisory role to make
8 sure that detectives put notes and reports into
9 investigative files?

10 A In general, the investigative files was -- was
11 there a sergeant in charge of making sure of that, or
12 there's a sergeant on a case-by-case basis could pick up
13 a file and evaluate whether enough stuff is in there.

14 I mean, that could happen.

15 Q Okay.

16 A But I don't recall anybody, any sergeant
17 responsible specifically for each one of those files --
18 for the -- for the files in general.

19 Q Okay. When we were talking about your
20 responsibilities as supervising sergeant, we also -- you
21 also said that one of your responsibilities was to
22 discipline officers, if it was discovered that they had
23 engaged in misconduct; is that right?

24 A No, because my -- the point is if somebody's
25 accused of -- of -- of engaging in unlawful conduct, the

1 supervisor would institute a CR investigation and send
2 it through the channels. And -- and depending on what
3 type of complaint or -- or allegation there might be, it
4 would be distributed to whatever investigative agency
5 was working in 1993, OPS, IAD, local, you know, in-
6 house, I guess you would call it.

7 Q So as a supervisor at Area 5, did you have any
8 role in handing out discipline to detectives?

9 A No.

10 Q Okay. As a supervisor at Area 5, did you have
11 any role in monitoring detectives' conduct to keep an
12 eye out for violations of policy?

13 MR. BRUEGGEN: Objection. Asked and answered.

14 MS. BARBER: And objection, form.

15 A If I observed a violation, it -- it was my
16 duty to -- to do a report in order to just to discipline
17 or a start investigation on -- on any of the individual
18 detectives.

19 Q So if it came to your attention that
20 detectives you supervised had engaged in serious
21 misconduct, what were your responsibilities as the
22 sergeant armed with that information?

23 MR. BRUEGGEN: Object to form. Incomplete
24 hypothetical, speculation, but go ahead.

25 A It depends on who -- who brought it to my

1 attention. If it was a fellow detective, I would have
2 him submit a report and I would put a cover letter on
3 it institute in a CR -- an investigation and send it
4 through channels. And if I was notified by the front
5 office that something was sustained and a certain
6 individual had time off, I would have to tell them what
7 the findings were on some investigation they might have
8 been subject to.

9 Q Okay. I want to ask you also about the report
10 that we looked at, that we marked as Exhibit 3, and
11 you'll recall this was the report that on the third page
12 had the different RD number on it; do you remember that?

13 A Yes.

14 Q Okay. When you were looking at that report,
15 the -- fair -- is it based on what I observed, is it
16 fair to say the mistake with the RD number jumped out to
17 you?

18 A Yes.

19 Q Yeah. And you noticed it before I mentioned
20 anything about it, right?

21 A Yes.

22 Q Okay.

23 A I noticed that -- that the date stuck -- stuck
24 to me. And then I saw the RD number was too -- was too
25 small, but it was an X0 number, which wouldn't

1 constitute a June case.

2 Q Right.

3 A But that's what stuck out at me, two things.

4 Q X0 would be more like a January, February
5 case?

6 A January, February case. Yes.

7 Q Got you. So based on that, do you have an
8 opinion about whether you would've noticed those details
9 when you were reviewing this report back in 1993?

10 MR. BRUEGGEN: Objection, form, speculation.

11 Go ahead, sir.

12 A Sitting here, I -- looking at that form, I
13 would've definitely made some kind of a observation on
14 it. You know, I -- maybe I didn't even look at page
15 three on that. I'm not sure. I can't answer it because
16 I don't remember those -- these reports. So if I saw it
17 today like that, I would've saw -- I -- I believe I
18 would've brought that to attention, because to me, it
19 looks like a big mistake. Something -- something
20 happened there that they inadvertently put one thing in
21 for another.

22 Q Yeah.

23 A That's my point.

24 Q I asked about the report I showed you as
25 Exhibit 4, which was the crime scene processing report

1 that had his name on the bottom --

2 COURT REPORTER: Counsel --

3 MR. BRUEGGEN: John, you cut out a little bit
4 there.

5 BY MR. HAZINSKI:

6 Q Okay. I'll ask it again. I'm just -- I just
7 want to orient you to what I'm going to ask about. So
8 Exhibit 4 was the first version of that crime scene
9 processing report that had Detective Halverson's name on
10 the bottom. Do you remember that report? You remember
11 testifying you believe that the signature --

12 COURT REPORTER: Sorry.

13 Q -- or the penmanship --

14 COURT REPORTER: This is the Court Reporter.

15 Your question cut out again on my end. Can you
16 repeat it one more time? I'm sorry.

17 BY MR. HAZINSKI:

18 Q Sure. I apologize if I'm having connection
19 issues here. And do you recall saying that the
20 signature under Detective Halverson's name was not
21 Detective Halverson's signature?

22 A Yes.

23 Q Okay. Now earlier, when we were looking at a
24 different report, you mentioned that, sometimes, I
25 believe, a detective would, if multiple detectives names

1 were on a report, one detective might give another
2 detective the option to sign their name; do you recall
3 that?

4 A Yes.

5 Q Okay. Now, case was just -- in your
6 familiarity with policies in 1993, was it appropriate
7 for someone other than that one named detective to sign
8 the report?

9 MR. BRUEGGEN: Objection. Form.

10 A He could -- he could have signed a report on
11 behalf of the other person --

12 Q Okay.

13 A -- with their permission.

14 Q Does the fact that that doesn't appear to be
15 Ernest Halverson's signature on that report indicate to
16 you that some other detective was -- or some other
17 person was involved in the preparation of that report?

18 MR. BRUEGGEN: Objection. Speculation.

19 A That -- that's the crime scene processing
20 report?

21 Q Yes, sir.

22 A My -- my speculation, my -- my opinion would
23 be someone could have signed it after the fact and they
24 noticed that it wasn't signed, or someone else could
25 have prepared it, that's a possibility.

1 Q Okay.

2 A And you use Ernie as the, if you want to use
3 the current terms, the lead detective or main guy in the
4 case.

5 Q Okay. Mr. Biebel, are you aware of
6 allegations that Detective Guevara caused numerous
7 individuals to be wrongfully convicted?

8 COURT REPORTER: I'm sorry, your question --

9 MR. BRUEGGEN: Objection.

10 COURT REPORTER: -- cut out. Could you repeat
11 it?

12 BY MR. HAZINSKI:

13 Q Yes. Mr. Biebel, are you aware of allegations
14 that Detective Guevara caused numerous individuals to be
15 wrongly convicted?

16 MR. BRUEGGEN: Objection to the extent that
17 any attorney client privilege communications that
18 Mr. Biebel had with myself or other attorneys from
19 my office, but with that direction, any other
20 things are fair game. Go ahead.

21 THE WITNESS: Could you please the question?

22 BY MR. HAZINSKI:

23 Q I'll rephrase to fit the objections. So apart
24 from what you may have learned in confidential
25 communications from your attorneys, I don't want to know

1 about those, apart, are you aware of allegations that
2 Detective Guevara caused numerous individuals to be
3 wrongfully convicted of crimes they didn't commit?

4 A I'm aware that there are -- are allegations
5 against Rey Guevara --

6 Q Okay.

7 A -- on other cases.

8 Q And you were his -- a co-defendant along with
9 Guevara in several cases, right?

10 A Yes.

11 Q Including this one? Do you know how many
12 cases you've been named as Co-defendant alongside
13 Detective Guevara?

14 MR. BRUEGGEN: Object to foundation.

15 Go ahead.

16 A I don't -- I -- I don't know if the exact
17 number.

18 Q Okay. Do the learning about allegations that
19 Detective Guevara caused individuals to be wrongly
20 convicted cause you, at any point, to question whether
21 you may have had a role in sending an innocent person to
22 prison?

23 MR. BRUEGGEN: Objection. Form. Asked and
24 answered.

25 A Could you repeat the question for me, please?

1 Q Did learning that there were allegations that
2 Detective Guevara may have caused a number of wrongful
3 convictions, did that ever cause you to question whether
4 you have made -- have played a role in sending an
5 innocent person to prison?

6 MR. BRUEGGEN: Same objections.

7 A It's -- it's an allegation, so it -- it's to
8 be determined. I had no --

9 COURT REPORTER: I'm sorry. The last part of
10 that answer cut out. Could you repeat it for me?

11 MR. BRUEGGEN: Object to form.

12 THE WITNESS: Oh, one way or the other. You
13 want the whole answer?

14 COURT REPORTER: The last thing I heard was
15 they are allegations, and then it started cutting
16 out.

17 MR. BRUEGGEN: Just restate your whole answer,
18 Bob.

19 THE WITNESS: I did. The allegation of
20 wrongdoing by Rey Guevara had me -- I did not have
21 any kind of repercussions or feelings one way or
22 the other, because I never really investigated
23 cases with Rey Guevara.

24 BY MR. HAZINSKI:

25 Q Okay. Does it seem fair to you that you are

1 being sued alongside Rey Guevara in cases based on
2 allegations of things that he did wrong?

3 MR. BRUEGGEN: Objection. Form. Vague.

4 A You're asking me if -- do I think it's fair?

5 No, it's not fair.

6 Q Why not?

7 A Because I'm -- A, didn't investigate cases
8 with him, number one. Number two, is I never really --
9 didn't never worked hand in hand on the same watch with
10 him. He worked days. I worked third watch in most
11 cases, and -- and I'm on the periphery as to the -- my
12 only input on this is I happen to sign my name on some
13 reports.

14 Q Okay. Does this seem fair to you that you are
15 being forced to sit here and answer questions about your
16 involvement in these cases while he invokes his Fifth
17 Amendment right to remain silent?

18 MR. BRUEGGEN: Objection. Form,
19 argumentative.

20 A My personal opinion is I'm not very happy
21 having to give depositions on any matter.

22 Q I don't blame you. Did you testify at any
23 criminal proceedings against Geraldo Iglesias at any
24 point?

25 A No.

Q Have you ever spoken to Geraldo Iglesias?

A No.

Q Okay. Do you have any personal knowledge of whether there was probable cause to prosecute Geraldo Iglesias for murder?

MR. BRUEGGEN: Object to form.

A In the review of the file indicated that the investigation pointed finger at and determined that subject was, in fact, the -- the killer of Roman, and was charged after -- after investigation.

Q Okay. Does your review of those reports lead you to believe that there was probable cause to prosecute Geraldo Iglesias for murder?

MR. BRUEGGEN: Same objection. Asked and answered.

A Yes.

Q Okay. Do you have an opinion about whether Geraldo Iglesias is guilty of the Roman homicide?

A I don't have any opinion about this case.

Q Okay. As you sit here today, can you identify the evidence that was uncovered during the Roman homicide investigation implicating Geraldo Iglesias in the murder?

MR. BRUEGGEN: Objection. Form. John, do you mean without reviewing the records, just from his

1 memory, or do you want him to look at the records?

2 MR. HAZINSKI: Well, based on your review of
3 the records and all the preparation you've done.

4 MR. BRUEGGEN: Okay. But without looking at
5 the records now, is what you're saying, from his
6 memory?

7 THE WITNESS: No.

8 BY MR. HAZINSKI:

9 Q Okay. From your review of the records, did
10 you learn that there were eyewitness identifications
11 that implicated Geraldo Iglesias?

12 A In my review of the reports I signed,
13 indicated that he was picked out a line and -- and the
14 investigation went forward.

15 Q Okay. Do you have any personal knowledge
16 about whether any identifications made, and any lineups
17 were obtained legitimately or illegitimately?

18 MR. BRUEGGEN: Objection. Form. Go ahead.

19 A I -- please, I -- you just two -- used two
20 words that I don't understand, legitimately or
21 illegitimately. So if you could re -- give me another
22 question with the same thought process.

23 Q Do you have any personal knowledge about
24 whether any eyewitness identification procedures
25 involving Geraldo Iglesias were conducted in a reliable

1 way or an unreliable way?

2 MR. BRUEGGEN: Objection. Form. Go ahead.

3 A I have no personal knowledge in this
4 investigation.

5 Q Okay. Does the fact that Rey Guevara has
6 invoked his Fifth Amendment right to remain silent in
7 response to questioning about his conduct during the
8 Roman homicide investigation, specifically, affect your
9 opinion about the existence of probable cause, for
10 example?

11 MR. BRUEGGEN: Objection. Asked and answered,
12 form.

13 A I have no opinion.

14 Q Okay. Did the process of answering questions
15 and reviewing documents today, during your deposition,
16 bring back any independent memories of the Monica Roman
17 homicide investigation that you didn't have when we
18 started the deposition this morning?

19 A Does it bring back anything? The question is
20 going back to 1993 and regarding this investigation, do
21 I have any -- recall knowledge; is that -- is that what
22 you're saying?

23 Q Well, specifically --

24 A Asking?

25 Q -- what I'm trying to ask is, did, you know,

1 sitting here today and answering these questions,
2 sometimes talking about things will jog a memory or
3 bring back something, remind you, and I'm asking, did
4 this process of reviewing documents and answering
5 questions do that for you today and bring back any
6 independent memories you didn't have before we started
7 today?

8 A Wow.

9 MR. BRUEGGEN: Object to form.

10 A I just -- I'm confused about the -- the -- you
11 want me to go back to 1993, I had no knowledge of that
12 case other than what I signed on paper. I -- I didn't
13 -- I didn't participate in the investigation. I didn't
14 assist in the investigation. I did not investigate it.
15 All I did was read reports and signed them.

16 Q Right. Understand. I must be asking my
17 question in a bad way because I'm not communicating
18 clearly, apparently. So the question is, you know, we
19 talked earlier in the deposition about what you remember
20 -- what you do remember and don't remember, right?

21 And we established --

22 A Remember what?

23 Q -- what you do remember and what you don't
24 remember. Are you able to hear me okay? Is my audio
25 coming through?

1 A No, you're breaking up a little bit, so --

2 Q Okay. Let me -- I'll try to speak loudly and
3 ask a clearer question. Before you started looking at
4 documents to prepare for this deposition, I believe you
5 said you had no memory of this case at all, right?

6 A That is true.

7 Q Okay. And then reviewing those documents to
8 prepare for the deposition, you learned some things just
9 from what was on the paper, but it didn't bring -- they
10 didn't jog your memory about anything else beyond what
11 was on a paper, just through that process of review; is
12 that correct?

13 A Yes.

14 Q Okay. Now, same thing for this process of
15 answering questions today, did this process of answering
16 questions and looking at documents today, bring back any
17 additional memories beyond just what we actually talked
18 about from looking at the paper and stuff?

19 A No.

20 Q Thank you. Do you have any other information
21 about the Roman homicide investigation other than what
22 we've talked about today?

23 MR. BRUEGGEN: Object to form.

24 Q All right. Thank you, Mr. Biebel. I don't
25 have more questions at this time.

1 A Thank you.

2 MR. BRUEGGEN: Anyone else have questions?

3 CROSS EXAMINATION

4 BY MS. BARBER:

5 Q I have a few follow-up questions, just very,
6 very briefly. Mr. Biebel, you were asked some questions
7 earlier today about -- well, you were asked lots of
8 questions about CPD policies. In a particular, I
9 believe you were asked some questions about CPD's
10 policies as to detectives taking written notes,
11 handwritten notes. And I believe that your answer to
12 the question about what -- about the -- what those
13 policies were, I believe you testified that you were not
14 aware of them. And I want to clarify your testimony.
15 Was it that you weren't -- there were no -- was your
16 testimony that there were no policies as to detectives
17 taking handwritten notes, or just that you don't recall
18 what the actual policies were at the time?

19 A My -- my answer is I don't recall the policies
20 in effect in 1993.

21 Q Okay. And you didn't review any written
22 general orders, or special orders, or anything like that
23 in preparation for your deposition, right?

24 A I did not.

25 Q Okay. So I believe you were also asked about

1 CPD's policies as to something along the lines of the
2 detective's obligation to turn over evidence or
3 information to criminal defendants. And again, you
4 testified, I believe your answer was, I'm not aware of
5 that. And I want to clarify, are you saying that you,
6 again, just don't recall what the policies were at that
7 time?

8 A My answer should have been, I don't recall the
9 policy of 1993 in regards to that question of the
10 detective turning over information.

11 Q Okay. That's all the questions I have.

12 MR. BRUEGGEN: Megan, do you have anything?

13 MS. MCGRATH: No, I don't. Thank you.

14 MR. BRUEGGEN: I don't have any questions.
15 John, do you say anything in follow-up?

16 MR. HAZINSKI: No. Nothing else for me.

17 COURT REPORTER: Okay. This concludes the
18 deposition --

19 MR. BRUEGGEN: We will --

20 COURT REPORTER: -- of Robert Biebel.

21 Oh, go ahead, sir.

22 MR. BRUEGGEN: Okay. We will reserve
23 signature.

24 COURT REPORTER: Okay, perfect.

25 This concludes the deposition of Robert

1 Biebel. The time is 1:49 and we are off the
2 record.

3 (DEPOSITION CONCLUDED AT 1:49 P.M.)
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1 CERTIFICATE OF REPORTER

2 STATE OF ILLINOIS

3

4 I do hereby certify that the witness in the foregoing
5 transcript was taken on the date, and at the time and
6 place set out on the Stipulation page hereof, by me
7 after first being duly sworn to testify the truth, the
8 whole truth, and nothing but the truth; and that the
9 said matter was recorded digitally by me and then
10 reduced to typewritten form under my direction, and
11 constitutes a true record of the transcript as taken,
12 all to the best of my skill and ability. I certify that
13 I am not a relative or employee of either counsel and
14 that I am in no way interested financially, directly or
15 indirectly, in this action.

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22 SUSAN L. HARRILL (BELL)

23 COURT REPORTER/NOTARY

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25 SUBMITTED ON: 07/06/2022

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Iglesias v. Guevara, et al.,
19 CV 06508

EXHIBIT 34

1 IN RE: PEOPLE VS. GERALDO IGLESIAS

2 GJ NO -- 676

3 93 CR 15199 01

4
5 BEFORE THE GRAND JURY OF COOK COUNTY

6 JUNE 2022

7
8 REPORT OF GRAND JURY PROCEEDINGS on

9 June 25, 1993, at the Cook County Criminal Courts

10 Building, 2600 South California Avenue, Chicago,

11 Illinois 60608.

12
13 PRESENT:

14 MR. JACK O'MALLEY,
15 State's Attorney of Cook County, Illinois, by:
16 MS. MARY ROBERTS,
17 Appeared on behalf of the People
18 of the State of Illinois

19
20 WITNESS: DETECTIVE REYNALDO GUEVARA

21 REPORTED BY:
22 RENAY PATTERSON-SEBANC, CSR, RPR
23 OFFICIAL COURT REPORTER
24 2650 CALIFORNIA, ROOM C402
CHICAGO, ILLINOIS 60608
ILLINOIS CSR LICENSE NO. 084-004206

1 THE FOREPERSON: Would you raise your right hand,
2 please?

3 (Witness duly sworn.)

4 MS. ROBERTS: I'm Assistant State's Attorney Mary
5 Roberts, Homicide Sex Unit. We're seeking a True Bill
6 of Indictment against Geraldo Iglesias for the offense
7 of first degree murder, committed against Monica Roman,
8 on or about June 7, 1993, at 2148 North Sawyer,
9 Chicago, Cook County, Illinois.

10 The Grand Jury has the right to question any
11 person against whom the State's Attorney is seeking a
12 Bill of Indictment, or any other person, and to obtain
13 and examine any documents or transcripts real rant to
14 the matter being prosecuted by the State's Attorney.

15 The State would call Detective Guevara.

16 DETECTIVE REYNALDO GUEVARA,
17 called as a witness, having been first duly sworn, was
18 examined and testified as follows:

19 EXAMINATION

20 BY MS. ROBERTS:

21 Q. Please state your name and spell your last
22 name.

23 A. Detective Reynaldo Guevara, G-u-e-v-a-r-a, my
24 Star Number 20861. I'm assigned to Chicago Police

1 Department, Area Five, Violent Crimes Unit.

2 Q. And were you assigned --

3 Have you been sworn?

4 A. Yes, I have.

5 Q. Were you assigned to investigate the first
6 degree murder committed by Geraldo Iglesias against
7 Monica Roman on or about 7.19.1993?

8 A. Yes, I was.

9 Q. And did your investigation show that Monica
10 Roman was alive prior to June 7, 1993?

11 A. Yes, it did.

12 Q. Did your investigation into Monica Roman was
13 in the area of 2148 North Sawyer at 4:00 p.m. on
14 June 7, 1993?

15 A. It did.

16 Q. Did your investigation show that the defendant
17 Geraldo Iglesias was present at that time?

18 A. Yes, it did.

19 Q. Did your investigation show that the defendant
20 was armed with a handgun?

21 A. Yes, it did.

22 Q. Did your investigation show that the victim
23 was unarmed?

24 A. Yes, that's correct.

1 Q. Did your investigation show that the defendant
2 fired five shots at the automobile the victim was a
3 passenger in?

4 A. That's correct.

5 Q. Did your investigation show that the defendant
6 shot the victim in the head?

7 A. Yes, it did.

8 Q. Did your investigation show that Dr. Choi (ph)
9 of the Medical Examiner's Office did an autopsy of the
10 victim, Monica Roman?

11 A. Yes.

12 Q. What did Dr. Choi's autopsy reveal as the
13 cause of death?

14 A. Victim died as a result of one gunshot wound
15 to the head.

16 Q. And did your investigation show that the
17 victim died on June 8, 1993?

18 A. Yes, it did.

19 Q. Did you learn these facts from your interviews
20 with witnesses?

21 A. That's correct.

22 Q. All these incidents happened in Chicago, Cook
23 County, Illinois?

24 A. That's correct.

1 MS. ROBERTS: I have no further questions.

2 Does the Grand Jury?

3 THE FOREPERSON: No questions.

4 Please step down. Thank you.

5 (Witness excused.)


6 (WHEREUPON, the Grand Jury was
7 left alone to deliberate, after
8 which the following proceedings
9 were had:)

10 SERGEANT AT ARMS: True Bill.

11 (WHEREUPON, the above-entitled
12 cause was continued for
13 arraignment before the Presiding
14 Judge of the Criminal Division.)
15
16
17
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19
20
21
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23
24

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)
4

5 I, RENAY PATTERSON-SEBANC, Official Court
6 Reporter in the State of Illinois, do hereby certify
7 that that I note-read the stenotype notes of THOMAS
8 MANNO, to the best of my ability, of the proceedings
9 had at the aforementioned cause before the Grand Jury
10 of Cook County, Illinois; that I thereafter caused the
11 foregoing to be transcribed into typewriting, which I
12 hereby certify to be a true and accurate transcript of
13 the proceedings had.
14

15 
16 Renay Patterson Sebanc, CSR, RPR
17 Official Court Reporter
18 License No. 084-004206
19

20 Dated this 20th day
21 of June 2022
22
23
24

Iglesias v. Guevara, et al.,
19 CV 06508

EXHIBIT 35

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The June, 1993 Grand Jury of the
Circuit Court of Cook County.

The Grand Jurors chosen, selected, and sworn, in and for the County
of Cook, in the State of Illinois, in the name and by the authority of
the People of the State of Illinois, upon their oaths present that on
or about JUNE 7, 1993 at and within the County of Cook

GERALDO IGLESIAS

committed the offense of FIRST DEGREE MURDER

in that HE, WITHOUT LAWFUL JUSTIFICATION INTENTIONALLY AND
 KNOWINGLY SHOT AND KILLED MONICA ROMAN
 WITH A GUN, IN VIOLATION OF CHAPTER 38,
 SECTION 9-1-A(1) OF THE ILLINOIS REVISED
 STATUTES 1989, AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same
People of the State of Illinois.

Charge ID Code: 1606

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths aforesaid present that on or about JUNE 7, 1993 at and within the County of Cook

GERALDO IGLESIAS

committed the offense of FIRST DEGREE MURDER

in that HE, WITHOUT LAWFUL JUSTIFICATION SHOT
AND KILLED MONICA ROMAN WITH A GUN
KNOWING THAT SUCH SHOOTING WITH A GUN
CREATED A STRONG PROBABILITY OF DEATH OR GREAT BODILY
HARM TO MONICA ROMAN, IN VIOLATION
OF CHAPTER 38, SECTION 9-1-A(2) OF THE ILLINOIS
REVISED STATUTES 1989, AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Charge ID Code: 1607

IGLESIAS 000923

CCSAO-Serr-Mont_00019652

**TRUE BILL
PRESENTED GRAND JURY**

BY:

Mary Roberts
Assistant State's Attorney

DATE

6-25-93 G.J.# Jun 676

Iglesias v. Guevara, et al.,
19 CV 06508

EXHIBIT 36

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 GERALDO IGLESIAS,)
5)
6 Plaintiff,)
7)
8 vs.) No. 19 CV 6508
9)
10 REYNALDO GUEVARA, ET AL.,)
11)
12 Defendants.)

13 The VIDEOTAPED VIDEOCONFERENCE
14 deposition of JOHN DeLEON, taken under oath
15 on Wednesday, April 6, 2022, conducted via
16 Zoom Teleconference pursuant to the Federal
17 Rules of Civil Procedure, before Maribeth
18 Reilly, State of Illinois Notary Public, and
19 Certified Shorthand Reporter,
20 No. 084-002306, commencing at 10:00 a.m.
21
22
23
24

1 APPEARANCES: (REMOTELY)

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11 Appeared on behalf of the
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15 LEINENWEBER BARONI & DAFFADA, LLC, by
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23 Appeared on behalf of Defendant
24 Reynaldo Guevara;

15
16 THE SOTOS LAW FIRM, P.C., by
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officers;

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9
10 Appeared on behalf of Defendant
11 City of Chicago.
12
13
14
15
16
17
18
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23
24

ALSO PRESENT:

MS. RACHEL WELLING,
Legal Videographer;

MS. MARIBETH REILLY,
Certified Shorthand Reporter.

* * * * *

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E X H I B I T S

DeLEON DEPOSITION

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1	Document Bates-stamped DeLeon SDT 0000128	35
2	Document Bates-stamped 2143 and 2144	42
3	Document Bates-stamped Iglesias 925	48
4	Document Bates-stamped Iglesias 2138 through 2139	51
5	Document Bates-stamped Iglesias 303-4, 311-314	56
6	Document Bates-stamped RFC Iglesias pages 56 and 57	72
7	Document Bates-stamped RFC Iglesias pages 59 and 60	79
8	Document Bates-stamped RFC Iglesias pages 48 to 55	87
9	Document Bates-stamped RFC Iglesias pages 40 to 42	95
10	Document Bates-stamped RFC Iglesias pages 10 to 13	99

JOHN DELEON, 04/06/2022

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9		Iglesias 2156 and 2157	121
10	14	Document Bates-stamped	
11		Iglesias 2158	123
12	15	Document Bates-stamped	126
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14	16	Document Bates-stamped	130
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17		Iglesias 2153 and 2154	
18	18	Document Bates-stamped	134
19		Iglesias 2330 to 2335	
20	19	Document Bates-stamped	137
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22	20	Document Bates-stamped	139
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24	21	Document Bates-stamped	
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		Iglesias 1440 to 1441	
	23	Highlighted copy of a	199
		document Bates-stamped	
		RFC Iglesias pages 10 to 13	
		(Exhibit 10)	

1 THE VIDEOGRAPHER: This is the
2 beginning of Media Unit 1, and we are now on
3 the video record at 10:00 a.m.

4 This is the videotaped video
5 conference discovery deposition of John
6 DeLeon, being taken on April 6, 2022. This
7 deposition is being taken on behalf of the
8 Defendant in the matter of Geraldo Iglesias
9 versus Reynaldo Guevara, et al.

10 The case number is 19 CV 6508
11 filed in the United States District Court
12 for the Northern District of Illinois,
13 Eastern Division.

14 My name is Rachel Welling,
15 legal videographer, representing Urlaub,
16 Bowen & Associates, with offices at 20 North
17 Clark Street, Suite 600, Chicago, Illinois.
18 The court reporter today is Maribeth Reilly,
19 also of Urlaub, Bowen & Associates.

20 Counsel, please identify
21 yourselves for the video record and the
22 parties which you represent.

23 MS. BRADY: Good morning. This is
24 Rachel Brady. I represent the plaintiff.

1 MR. BRUEGGEN: Good morning. I am
2 Dave Brueggen. I represent Defendants
3 Biebel, Gawrys, Riccio, and Halvorsen.

4 MS. McGRATH: Good morning. My
5 name is Megan McGrath, and I represent
6 Defendant Guevara.

7 MR. RAHE: Good morning. My name
8 is Austin Rahe, R-a-h-e, and I represent
9 Defendant City of Chicago.

10 THE VIDEOGRAPHER: Will the court
11 reporter please swear in the witness.

12 (Witness duly sworn.)

13 JOHN DeLEON,
14 called as a witness herein, was examined and
15 testified as follows:

16 EXAMINATION

17 BY MR. BRUEGGEN:

18 Q. Good morning, Mr. DeLeon. Can you
19 please state your full name for the record.

20 A. It's John Raymond DeLeon.

21 Q. Mr. DeLeon, have you ever given a
22 deposition before?

23 A. I don't recall giving one.

24 Q. Have you ever taken a deposition

1 before?

2 A. No, I don't recall taking one. I
3 am pretty much an in court trial lawyer.

4 Q. Fair enough. Let me go over just
5 some general rules. Obviously, we are doing
6 this via Zoom, so it's a little different.
7 You can see me, so it will be easy.
8 Hopefully, we won't talk over each other,
9 but I would ask that you wait until I finish
10 a question before you pose an answer. And
11 likewise, I will wait until you are done
12 with your answer before I pose a new
13 question. Okay?

14 A. Okay.

15 Q. Also, if you could answer out loud
16 and orally just like at a trial with yes or
17 no, as opposed to uh-huh or uh-uh or nodding
18 or shaking your head. Is that okay?

19 A. Right.

20 Q. I am going to be asking you some
21 questions today. If at any time you need a
22 break, that's not a problem, just let us
23 know. I'd just ask if there is a question
24 pending, you answer the question, and then

1 we can take a break. Okay?

2 A. Okay.

3 Q. And also, since this is via Zoom,
4 if for any reason you don't hear my question
5 or you don't understand my question, there
6 is technical glitches or something of that
7 nature, just let us know, and I can repeat
8 the question or rephrase the question as
9 necessary. Okay?

10 A. Okay.

11 Q. Sir, is there anyone in the room
12 with you right now?

13 A. No.

14 Q. Do you have any documents related
15 to Mr. Iglesias with you?

16 A. No.

17 Q. And just because we are doing this
18 via Zoom, if at any time someone joins you
19 in the room or you pull out any documents,
20 if you could just let us know since we can't
21 see what you are doing necessarily, I would
22 appreciate that. Okay?

23 A. Okay.

24 Q. And during the deposition, I will

1 probably show you some exhibits. I will put
2 them up on the screen. When they are up on
3 the screen, you are in charge if you need me
4 to zoom in, if you need me to move it, make
5 it bigger, smaller, whatever, you tell me
6 what I need to do, and I will do it because
7 the goal is to make sure that you can review
8 whatever you need to review to answer the
9 questions. Okay?

10 A. Okay.

11 Q. Prior to this deposition, have you
12 spoken to anybody about the substance of a
13 deposition or actually questions that might
14 be posed in the deposition, as opposed to
15 just scheduling?

16 A. Not to the substance really.

17 Q. Have you spoken to people, or was
18 it just scheduling the deposition and
19 availability?

20 A. Scheduling, availability, yes. I
21 spoke briefly to Rachel Brady about
22 scheduling, and more or less how the -- I
23 have never done a Zoom, like I told you. So
24 I asked them questions about that, too.

1 Q. Not a problem. Did you talk about
2 any substance of the deposition, your
3 representation of Mr. Iglesias during that
4 discussion?

5 A. Not that I can recall, no. Other
6 than I was his lawyer, and I had a
7 co-counsel named Donna Makowski. I think
8 that was -- that issue came up.

9 Q. Sir, did you review any documents
10 prior to this deposition related to
11 Mr. Iglesias?

12 A. No.

13 Q. And have you seen any news or
14 media coverage about Mr. Iglesias's case
15 that you recall?

16 A. A long time ago I saw something on
17 the news. I think it was around the time
18 that he was being released, but I don't
19 remember the circumstances of it.

20 Q. After you saw that, did you do any
21 research online and look into what had
22 happened with him?

23 A. No.

24 Q. When you saw that, did you recall

1 that you had represented Mr. Iglesias back
2 in 1993?

3 A. If I remember right -- and again,
4 my memory is somewhat vague, Attorney
5 Makowski contacted me and said something
6 about -- reminded me that I represented him.

7 Q. When was the last time you
8 reviewed any documents regarding
9 Mr. Iglesias?

10 A. It would have been around the time
11 of the trial, during the trial, and probably
12 shortly afterwards, the sentencing, during
13 the process of representing him. I haven't
14 seen a document since then.

15 Q. Okay. And do you have any
16 recollection of your representation of
17 Mr. Iglesias as you sit here, any
18 independent recollection?

19 A. Very little.

20 Q. What do you remember, sir?

21 A. I remember that I represented him.
22 I remember what he looked like at that time,
23 and I remembered after Donna Makowski
24 reminded me that she was co-counsel on the

1 case. I remember that; she was with me.
2 But I don't remember the trial. I don't
3 know if it was a bench trial or a jury
4 trial.

5 It was a long time ago, and
6 unfortunately, 2008 I had a stroke, and it
7 has harmed a lot of my memory prior to 2008.
8 I have a good memory for anything after
9 2008, but prior to 2008, there are things
10 that I don't remember very well.

11 Q. And I appreciate that, sir. Thank
12 you for telling us about that.

13 Are there any other things
14 that impact your ability to testify
15 truthfully and accurately today to the best
16 of your ability?

17 A. No.

18 Q. Sir, do you recall any of the
19 details of the crime that Mr. Iglesias was
20 charged with, whether it was a murder,
21 attempted murder, agg. batt?

22 A. I remember it was -- I remember it
23 was a murder case, and I believe it was a
24 shooting of some sort.

1 Q. Do you recall if it was gang
2 related?

3 A. I can only assume it was gang
4 related because at the time he was involved
5 with gangs, or he previously had been
6 involved with gangs.

7 Q. All right, sir. And shifting
8 gears, how old are you today?

9 A. I'm 71.

10 Q. Are you still practicing law?

11 A. Yes, I am.

12 Q. Are you practicing full-time or
13 just kind of an of counsel role?

14 A. It's more part-time. I take
15 cases. I used to try a lot of cases every
16 year. I'm probably doing 25 percent of what
17 I used to do when I was full-time.

18 Q. And what types of cases are you
19 trying nowadays?

20 A. Well, gun cases, misdemeanor
21 cases. I try to stay away from murder
22 cases, although I am co-counsel on a few of
23 them. My daughter is a defense attorney,
24 and I help her out.

1 Q. In what city do you currently
2 reside?

3 A. I am in Valparaiso, Indiana.

4 Q. Do you practice in Indiana or just
5 in Illinois?

6 A. Pretty much just in Illinois. I
7 have practiced in Indiana, but I haven't
8 taken any cases in Indiana since I moved
9 here.

10 Q. Sir, what's the highest level of
11 education you have completed?

12 A. Law school.

13 Q. When did you complete law school?

14 A. 1977.

15 Q. What law school did you attend?

16 A. DePaul University.

17 Q. After completing law school, did
18 you have any additional education in law,
19 like an LLM or anything of that nature?

20 A. No.

21 Q. CLE, stuff like that, but no
22 certificates or anything?

23 A. Right. CLEs, every year CLEs,
24 right.

1 Q. Where did you go to undergrad?

2 A. University of Illinois.

3 Q. Is that Chicago or Champaign?

4 A. Circle Campus they called it back
5 then, Chicago.

6 Q. When did you graduate University
7 of Illinois?

8 A. I think it was '74.

9 Q. Did you go right from undergrad to
10 law school?

11 A. I think I did. I know I took a
12 year off somewhere in there, but I can't
13 remember which year it was.

14 Q. When were you licensed to practice
15 in Illinois?

16 A. '78, I believe. November of '78,
17 I think.

18 Q. Have you been practicing -- strike
19 that.

20 Have you been practicing in
21 Illinois since 1978 through the present with
22 your current part-time practice?

23 A. Yes.

24 Q. Did you take any breaks or years

1 off from practicing law at any time?

2 A. When I had a stroke in 2008, I was
3 off pretty much for about a year for my
4 recovery.

5 Q. Have you ever served in the
6 military?

7 A. No.

8 Q. In your current practice, do you
9 work for a firm?

10 A. No.

11 Q. You are a sole practitioner, sir?

12 A. Sole practitioner.

13 Q. How long have you been as a sole
14 practitioner?

15 A. 40-something years, forty -- I
16 don't know exactly how many, 43 or
17 something, 44 to today's date.

18 Q. What was your first job after
19 being licensed in Illinois?

20 A. I was hired by Sam Adam, and Ed
21 Genson right after I was sworn in.

22 Q. Was that doing criminal defense?

23 A. Right.

24 Q. How long did you work for Sam Adam

1 and Ed Genson?

2 A. I worked directly for them for, I
3 would say, a good -- it's maybe six, eight
4 years. It's hard to say exactly because
5 solo practitioners pick up young lawyers to
6 work with them, and Sam Adam and Ed Genson
7 weren't actually a firm. They shared office
8 space, so I would do work for both of them
9 like on a case-by-case basis, and I had an
10 office in the suite. I was not a partner in
11 the office, so to say. So I was like a
12 subcontractor --

13 Q. So you --

14 A. -- for them.

15 Q. -- you were basically an associate
16 underneath them kind of learning the
17 practice of law by doing stuff for them,
18 right?

19 A. Right.

20 Q. And at some point, did you then
21 leave working underneath them as like an
22 associate and start your own practice?

23 A. Gradually, little by little over
24 the years, you end up doing that, yes. I

1 was still in Sam Adam's office and Ed
2 Genson's office when the Iglesias case --
3 when I did the Iglesias case.

4 Q. When you say you were in their
5 office, were you -- basically you had office
6 space in their office, and you worked on --

7 A. Right.

8 Q. -- some cases with them, but you
9 also did some cases on your own?

10 A. Right.

11 Q. Was there any formal affiliation
12 with Sam Adam or Mr. Genson at that time, or
13 was it kind of a loose affiliation of
14 sharing office space?

15 A. It was a loose affiliation of
16 sharing office space.

17 Q. When you started going off on your
18 own, how would you get your clients?

19 A. They'd call me.

20 Q. Did you advertise, or was it
21 mostly referrals?

22 A. Word-of-mouth referrals.

23 Q. Have you ever had any partners in
24 your practice, or have you always been a

1 sole practitioner?

2 A. I've always been a sole
3 practitioner.

4 Q. As a sole practitioner, did you
5 ever have any associates underneath you?

6 A. Well, not associates underneath
7 me, no.

8 Q. Did you have a similar type of
9 relationship that you had with Mr. Adam and
10 Mr. Genson where you would have associates
11 who would do work on some of your cases but
12 were trying to also start their own
13 practice?

14 A. Yes.

15 Q. You mentioned earlier that Donna
16 Makowski worked on the Iglesias case with
17 you, right?

18 A. Yes.

19 Q. What was your relationship with
20 Donna Makowski back in 1993?

21 A. She came into Sam Adam's office
22 and offered -- you know, when she was part
23 of the office, again sharing office space,
24 she would offer her services as a young

1 lawyer to help another lawyer like myself.
2 And so I know she did continuances for me,
3 and she ended up trying the Iglesias case
4 with me.

5 Q. Did you have any type of formal
6 relationship with her, or would she just
7 cover things for you?

8 A. It wasn't formal, right.

9 Q. How was she compensated for
10 working on the Iglesias case with you?

11 A. I don't remember, but more than
12 likely, it was like, we usually -- if we
13 worked -- have a young lawyer work with us,
14 we'd pay them. You know, out of the fees
15 that the family of Iglesias would have paid
16 us, she would get paid, too.

17 Q. Was it like an hourly fee for the
18 young associates, or was it like just a
19 percentage of whatever the payment was?

20 A. We never did hourly fee. It would
21 be percentage of some sort.

22 Q. Back in the early or mid-'90s, did
23 you ever have an hourly fee for your
24 clients, or would it be a flat fee depending

1 on the case?

2 A. Flat fee depending on the case.

3 Q. How long did you and Ms. Makowski
4 share office space with Mr. Adam and
5 Mr. Genson?

6 A. I don't remember exactly how long
7 it was. It was a few years, but I don't
8 remember how long.

9 Q. Do you recall when you left
10 sharing office space with Mr. Adam and
11 Mr. Genson and moved into your own office
12 somewhere?

13 A. I don't remember the year.

14 Q. But it was after you had handled
15 the Iglesias case?

16 A. It was sometime after, yeah. I
17 was still in the Monadnock Building. Best
18 way I can explain it to you, we originally
19 were in 134 North LaSalle where Sam Adam's
20 and Ed Genson's offices were on the third
21 floor, and that's where I had an office for
22 many years.

23 And then when Genson decided
24 to move to the Monadnock Building, many of

1 the young lawyers followed him and shared
2 office space in his suit, which is what I
3 did. And then, eventually, I took up office
4 space next to his suite in a separate suite,
5 but we still had a relationship pretty much
6 up until the time he passed away, which is
7 just about two years ago.

8 Q. When you shared office space with
9 other attorneys, did you share support
10 staff?

11 A. Yes, secretaries, and all that,
12 yes.

13 Q. Secretaries or paralegals?

14 A. Yes.

15 Q. Who would manage your file? Would
16 you keep your own file, or was that handled
17 by office staff?

18 A. No. I keep my own file.

19 Q. In the early to mid-'90s, did you
20 focus on any particular area of criminal
21 law?

22 A. Not really, just pretty much
23 whatever came in the door, drug cases,
24 murder cases, gun cases, whatever it was.

1 Q. Did you represent a lot of gang
2 members?

3 A. Yes, I did.

4 Q. Was there any particular gang that
5 you represented more gang members than
6 others?

7 MS. BRADY: Objection. Form.

8 You can go ahead and answer.

9 BY MR. BRUEGGEN:

10 Q. From time to time, there may be
11 objections. You will just go ahead and
12 answer since we don't have a judge to rule
13 on the objections. Okay, sir?

14 A. Right. I represented just about
15 every street gang member of different gangs
16 in the City at one time or another. They
17 seem to trust me a lot because I myself came
18 up through the City of Chicago streets.
19 While I was not a card carrying member of
20 any gang, I had associations as a youth with
21 many, many street gangs, friends that became
22 gang leaders, and they remained friends
23 after I became a lawyer, and they came to me
24 because they trusted me.

1 So I'm trying to remember. I
2 believe Iglesias was associated with the
3 Cobras street gang, I think. I'm not sure.
4 And I had a lot of Cobra street gang
5 members.

6 Q. No problem, sir, and we can get
7 into the details later. I am just
8 generally -- so those friends that you had
9 growing up who went the gang life way, were
10 those sources of referrals gang members to
11 you because they trusted you?

12 A. Yes.

13 MS. BRADY: Objection.
14 Foundation.

15 Go ahead.

16 BY MR. BRUEGGEN:

17 Q. Back in the mid to early '90s and
18 late '80s, did you represent both People and
19 Folk?

20 A. I'm sure I did. But just to let
21 you know, I don't know who -- what gang
22 member or what gang is Peoples and what gang
23 is Folks. Because I tried to represent --
24 even though they were alleged gang members,

1 I tried to represent individuals, and I
2 would tell my clients that I do not want to
3 hear what section or factions they were with
4 because I don't care. I'm just trying to
5 help one person at a time. And I also tried
6 to speak to them to get out of the gang to
7 reform themselves.

8 Again, because I was born and
9 raised in the City, I knew the evils of
10 gangs. I also knew the good stuff from
11 gangs, but I was trying to do the best I
12 could to go back to my community where I
13 came from, which was the Hispanic community,
14 and change things and try to get gang
15 members to stop shooting each other, stop
16 killing each other, and to stop fighting.

17 Q. Sir, can you tell us what --

18 A. I don't know who's Peoples and
19 who's Folks.

20 Q. I appreciate the answer, sir. Can
21 you tell us what area of the City you grew
22 up in?

23 A. I grew up originally on Taylor
24 Street. It was a Mexican community there in

1 Little Italy that I was a part of, and then
2 I moved to 26th Street, which became,
3 unfortunately, gang ridden also. And I
4 would hang around in Pilsen and in the Latin
5 community on the Near West Side and West
6 Side.

7 I ended up going north
8 sometimes because I had a very good friend
9 who was the president of the Young Lords
10 street gang in the Puerto Rican neighborhood
11 and ended up representing him, Jose Cha Cha
12 Jimenez, who was famous in the '60s and
13 '70s.

14 Q. Sir, you said the West Side. Did
15 you hang out in the Humboldt Park area
16 growing up at all?

17 A. I would go up there to visit
18 friends, gang members that were just friends
19 that were, unfortunately, gang members also.
20 But again, I kind of went all over the
21 place.

22 I was involved in different
23 programs to try and reach out to young gang
24 members. And so as part of my volunteer

1 duties, I would go and talk to people in
2 Humboldt Park who were gang members.

3 Q. Sir, those duties you just talked
4 about, about going out and talking to gang
5 members about reforming and getting out of
6 gangs, when did you do that? Was that after
7 you were a licensed attorney or before?

8 A. It started before. I worked
9 for -- eventually, I got a paying job. It
10 was volunteer basically with a group called
11 Latin American Youth Center. In Spanish
12 they called it Centro, C-e-n-t-r-o, and they
13 had a gang intervention unit. And because I
14 knew a lot of people from the streets, I
15 would volunteer to help out, and we would go
16 out to different areas of the City and talk
17 to the young people and young members of
18 gangs and try and keep them calm and try and
19 keep things quiet on the streets. And,
20 eventually, I went to law school, and I
21 still kept the same contacts.

22 I later became the president
23 of the board of directors for the Latin
24 American Youth Center, and I served in that

1 post for about 30 years, and we still had
2 our gang intervention unit. We partnered up
3 with a Christian organization, and we did a
4 lot of work in the streets for a Christian
5 organization. I can't remember the name of
6 it right now. It will pop in my head
7 eventually. I remember the pastor's name,
8 Reverend Gordon McLean, and we did a lot of
9 work in Humboldt Park with Gordon McLean.

10 Q. Sir, if later on you remember the
11 name of the Christian organization, you can
12 just, you know, tell us at that time, okay?

13 A. Okay.

14 Q. Going back, I appreciate that you
15 didn't really talk to your clients about
16 what gangs or factions they were affiliated
17 with, but did you ever have any issues with
18 representing rival gang members at the same
19 time?

20 MS. BRADY: Objection. Form and
21 foundation.

22 THE WITNESS: I didn't have any
23 problem with that. I believe that most of
24 the young men I represent knew I was going

1 to do the best I could for them even if I
2 represented a rival also, so I didn't see it
3 as a conflict, and neither did they because
4 they kept coming to me.

5 BY MR. BRUEGGEN:

6 Q. Sir, I'd like to talk about your
7 general practice back in the early to
8 mid-'90s.

9 A. Sure.

10 Q. When you were retained in a
11 homicide case, was it your practice to
12 subpoena the law enforcement agency that was
13 involved in investigating that case?

14 A. We would normally send out
15 subpoenas to the Chicago Police Department
16 for street files, all police reports, you
17 know, the catchall subpoena, so we could get
18 original reports on the case right away. Of
19 course, the State also once we filed an
20 appearance had to tender discovery to us so
21 we would be getting discovery through a
22 subpoena and by way of a motion for
23 discovery, police reports.

24 Q. Let me take a quick step back. In

1 your practice, did you mostly practice in
2 Cook County?

3 A. Mostly in Cook County, yes.

4 Q. How early -- strike that.

5 After you were retained in a
6 murder case, how soon after being retained
7 would you be issuing subpoenas to the
8 various law enforcement agencies that were
9 involved in the investigation?

10 MS. BRADY: Objection. Form.

11 MR. BRUEGGEN: You can go ahead
12 and answer.

13 THE WITNESS: We would do it as
14 fast as possible.

15 BY MR. BRUEGGEN:

16 Q. Why would you want -- sorry, go
17 ahead.

18 A. I didn't have a time limit. I
19 would just do it as fast as I could.

20 Q. Why would you want to do it as
21 fast as you could?

22 A. Because I was interested in
23 getting to know what the police report said
24 about this case as fast as possible for the

1 client's sake, my sake, too. I wanted to
2 know what I'm getting into, you know.

3 Q. Sir, when you were retained in
4 murder cases, was it your practice to
5 interview the various witnesses who were
6 involved in the investigation?

7 A. We would do it if there wasn't
8 enough funds for a private investigator. If
9 there was enough funds for a private
10 investigator, then we'd ask the investigator
11 to go do it.

12 Q. Sir, I don't think I understood
13 your answer. You said if there weren't
14 enough funds to hire an investigator, then
15 you would ask the investigator to go do it?
16 Am I misunderstanding?

17 A. No. If there weren't enough
18 funds, we'd do it.

19 Q. Gotcha.

20 A. The lawyers. I would take another
21 lawyer with me, and we would look over it,
22 and we'd try and track down the witnesses
23 and talk to them.

24 And if there was enough funds

1 for a private investigator, of course, we'd
2 hire a private investigator to go interview
3 the witness.

4 Q. How would you determine which
5 witnesses to interview and which witnesses
6 you didn't need to interview?

7 A. From the police reports.

8 Q. Would you also talk to your
9 clients about the police reports and
10 witnesses to get additional information as
11 to which witnesses would need to be
12 interviewed versus which ones did not?

13 A. Of course, yes.

14 Q. When you'd represent clients who
15 were accused of murder, would you talk to
16 them about a potential alibi or other
17 defenses?

18 A. Of course.

19 Q. If your client provides you an
20 alibi witness or statements, was that
21 something you would then investigate?

22 A. Of course.

23 Q. Sir, now I'd like to move on to
24 talk about Mr. Iglesias, and I appreciate

1 you don't have a lot of independent
2 recollection, and I will try to refresh your
3 recollection with documents as necessary.
4 So if at any time you don't recall, just let
5 me know, okay?

6 A. Okay.

7 Q. I wanted to start by, do you
8 recall that we sent you a subpoena for a
9 copy of your file of Mr. Iglesias within the
10 last couple of years?

11 A. I don't recall.

12 Q. Do you know if you have a copy of
13 your file for Mr. Iglesias?

14 A. I don't have a copy of a file.

15 Q. So what I'd like to do is I'd like
16 to mark an exhibit right now. It's going to
17 be the response I received to the subpoena,
18 and what will happen is it will go up on the
19 screen. Okay? So give me a second. Let me
20 get it up on the screen.

21 A. Okay.

22 Q. Again, if you need me to zoom in,
23 just let me know.

24 A. Okay.

1 (Whereupon, DeLeon Deposition
2 Exhibit No. 1 was
3 screen-shared/referenced.)

4 BY MR. BRUEGGEN:

5 Q. Mr. DeLeon, do you see a document
6 up on your screen?

7 A. Yes, I do.

8 MR. BRUEGGEN: And for the record,
9 this is the subpoena response to the
10 subpoena to Mr. DeLeon.

11 BY MR. BRUEGGEN:

12 Q. Sir, can you just take a minute to
13 review that response.

14 A. Okay, I read it.

15 Q. And, sir, having reviewed that
16 response, does that refresh your
17 recollection as to receiving a subpoena from
18 my office?

19 A. Again, I don't have any
20 independent recollection of receiving it. I
21 see I did, and I responded.

22 Q. You see that you responded and you
23 made a diligent search but were unable to
24 find a copy of Mr. Iglesias's file; is that

1 right?

2 A. Right.

3 Q. And you also note that you had a
4 retention period following the termination
5 or completion of any representation of 15
6 years. Am I understanding that correct?

7 MS. BRADY: Objection.

8 THE WITNESS: That's what it says.

9 MS. BRADY: Form.

10 MR. BRUEGGEN: I'm sorry, sir. I
11 didn't get your answer.

12 THE WITNESS: That's what it says,
13 15 years.

14 BY MR. BRUEGGEN:

15 Q. As you sit here today, do you know
16 if Mr. Iglesias's file if you had destroyed
17 it pursuant to your regular record retention
18 policy of 15 years, given that you
19 represented him back in '93 and '94?

20 A. I can see that it was destroyed,
21 yeah.

22 MS. BRADY: Dave, I am just going
23 to object to form. I don't think it says
24 the record retention policy was 15 years. I

1 think he says he destroyed them over 15
2 years ago. I just want to clarify that.

3 MR. BRUEGGEN: Ah, okay. I
4 appreciate that, Rachel.

5 BY MR. BRUEGGEN:

6 Q. Mr. DeLeon, do you have a formal
7 record retention policy for your client
8 files?

9 A. No. Let me say this, my
10 recollection is I would normally keep files
11 for seven years, which was, I believe, the
12 time that -- the amount of time you are
13 supposed to keep a file for according to
14 Internal Revenue Service records. And over
15 the years, I have kept files, more or less,
16 around that time.

17 And periodically, when my
18 storage facility was full -- or at one time
19 I even used my garage, my garage got
20 overfull, I would call one of those shredder
21 trucks, and we would shred the files.

22 I don't have an exact policy.
23 You know what I am saying?

24 Q. No. I appreciate that. It sounds

1 like you didn't have an exact policy, but
2 you followed the guidelines from the IRS to
3 make sure that you retained --

4 A. Right.

5 Q. Sir, as you sit here today, is
6 there any way to know what was in your file
7 for Mr. Iglesias?

8 A. Other than my normal custom, and
9 it would have the police reports, my notes,
10 you know, the indictment, the normal
11 documents that are in files.

12 Q. Sir, are you aware of any other
13 complete copies of the file that you had for
14 Mr. Iglesias that exist today?

15 A. No.

16 Q. Do you know if Ms. Makowski had a
17 file for Mr. Iglesias?

18 MS. BRADY: Objection.
19 Foundation.

20 THE WITNESS: You'd have to ask
21 her. I don't know.

22 BY MR. BRUEGGEN:

23 Q. When you worked with Ms. Makowski,
24 do you know if she kept separates files on

1 the same cases that you had files on?

2 MS. BRADY: Objection.

3 Foundation.

4 THE WITNESS: I don't think she
5 kept a separate file. Because at the time,
6 she was in the same suite I was, and we
7 would work off the same file.

8 And again, my recollection was
9 she was with me during the trial, but I did
10 all the work. Normally I try my own cases.
11 And it's possible, but I doubt very much,
12 that she cross-examined any witnesses. She
13 was probably just note-taking.

14 BY MR. BRUEGGEN:

15 Q. In Mr. Iglesias's case, do you
16 have any recollection of how you were
17 retained?

18 A. Specific, no.

19 Q. And Mr. Iglesias says that he
20 believed that you may have been contacted by
21 his sister or mother to be retained in the
22 case. And my question is, was that common
23 that you would be contacted by family
24 members of a client?

1 A. Yes, yes. Normally that was very
2 common.

3 Q. Do you have any recollection of
4 representing Mr. Iglesias in another
5 criminal matter, possession of controlled
6 substance prior to being retained in the
7 murder case?

8 A. I don't have an independent
9 recollection of that, but I probably
10 represented him. I remember his -- him
11 pretty well as far as his face, and that he
12 was a nice young man that I thought would
13 benefit from me representing him.

14 Because again, I was always
15 trying to reform my clients. I was a born
16 again Christian then. I am now. And part
17 of my practice is to try to talk to young
18 men about their future, not on the streets
19 of Chicago, their future in eternity. You
20 understand what I am saying, I'm sure,
21 right?

22 Q. Yes, sir, I appreciate that.

23 A. So I would always develop a
24 relationship with them, so I think I

1 represented him maybe in more than one case
2 because most of my clients I represented
3 them on several things. I just don't
4 remember the specifics of it, if it was a
5 drug case or what it was.

6 Q. And I appreciate that, sir, and I
7 know it was a long time ago, so I appreciate
8 you telling me whatever you can remember.

9 Do you -- strike that.

10 At that time, would you have
11 been retained by Mr. Iglesias, and you would
12 have brought Ms. Makowski on board?

13 MS. BRADY: Objection. Form.

14 THE WITNESS: I'm not sure because
15 I know that Mr. Iglesias also knew Donna
16 Makowski. She might have even represented
17 him on something. I don't know, but I know
18 she knew him also.

19 And I think she's -- it's
20 coming back to me a little bit that she had
21 a relationship, at least by phone or with
22 the sister of Iglesias, I think. But again,
23 you'd have to ask her that. I don't have
24 any specific recollection of it. I just

1 seem to think that she spoke to the sister.

2 BY MR. BRUEGGEN:

3 Q. Sir, do you recall were there
4 cases where Ms. Makowski took on a case and
5 then would bring you in because of your
6 experience at the time to help?

7 A. Yes, that would happen.

8 Q. Sir, I'd like to show you another
9 document, see if this refreshes your
10 recollection.

11 MR. BRUEGGEN: For the record,
12 this is Iglesias 2143 and Iglesias 2144.
13 Sir, I will share this right now.

14 MS. BRADY: Are you marking this
15 as an exhibit, Dave?

16 MR. BRUEGGEN: Yes. This will be
17 2, I'm sorry.

18 (Whereupon, DeLeon Deposition
19 Exhibit No. 2 was
20 screen-shared/referenced.)

21 BY MR. BRUEGGEN:

22 Q. Mr. DeLeon, do you see a document
23 up on your screen?

24 A. Yes, I do.

1 Q. Are you able to read that, or do
2 you need me to zoom in?

3 A. No, I can read it.

4 Q. And there is two pages here. Here
5 is the first page and let me show you the
6 second page.

7 A. Okay. I can read it.

8 Q. Can you identify what types of
9 documents these are?

10 A. These are appearance forms.

11 Q. And this is a document that would
12 be filed to officially appear on behalf of a
13 criminal defendant?

14 A. Yes.

15 Q. And I will represent to you that
16 these were disclosed by Mr. Iglesias and
17 appear to be part of Mr. Iglesias's record
18 on appeal. At the bottom it says C11 down
19 here?

20 A. Right.

21 Q. C12?

22 A. Right.

23 Q. So again, on these appearances,
24 there is no case number. Do you see that,

1 sir?

2 A. I see there is no case number. I
3 am not sure --

4 Q. Can you read the file stamp on
5 Ms. Makowski's? Let me zoom in here. And
6 it appears to me it says, June 24, 1993?

7 A. I think you are right. June 24,
8 1993. It's kind of blurry, but that's what
9 it looks like.

10 Q. Which would be consistent with the
11 return date up above, June 24, 1993?

12 A. Right.

13 Q. Sir, do you know if this was
14 Ms. Makowski's appearance for Mr. Iglesias's
15 murder case?

16 MS. BRADY: Objection.
17 Foundation.

18 THE WITNESS: I see where it says
19 room number, and it says bond court, so it
20 appears that she appeared for bond court. I
21 can't identify for what case it is.

22 BY MR. BRUEGGEN:

23 Q. Can you tell from the appearance
24 what date the bond court would have been?

1 A. What what? I'm sorry, I missed
2 that.

3 Q. Can you tell from Ms. Makowski's
4 appearance what date the bond court would
5 have been?

6 MS. BRADY: Objection.
7 Foundation. Sorry. Go ahead.

8 BY MR. BRUEGGEN:

9 Q. The return date, does that
10 indicate anything?

11 A. I believe that would indicate the
12 date she was there, June 24, '93.

13 Q. Sir, going to the second page,
14 which is Iglesias 2144, do you see a
15 signature right above attorney?

16 A. Right, that's my signature.

17 Q. And below charge, you see it says
18 murder?

19 A. Yes, I see that.

20 Q. And at this time, I think you told
21 us you were in the Monadnock Building, which
22 would have been 53 West Jackson, right?

23 A. Right, that's it.

24 Q. And, unfortunately, your

1 appearance doesn't have a stamp on it, a
2 file stamp on it?

3 A. Right.

4 Q. Reviewing this, do you have any
5 recollection of when you appeared in
6 Mr. Iglesias's case?

7 A. No, I don't, and there is no date
8 on it, which is not unusual. When you are
9 filling out an appearance form, getting
10 ready to run in front of the judge,
11 sometimes you miss something.

12 Q. Sir, I'd like to ask you just
13 something about criminal law. After a
14 person is arrested for murder charges, what
15 would be the next step in the process that
16 the State would do?

17 MS. BRADY: Objection. Foundation
18 and form.

19 THE WITNESS: They would do an
20 initial appearance for bond hearing.

21 BY MR. BRUEGGEN:

22 Q. And after the initial appearance
23 for bond hearing, would there be grand jury
24 proceedings, or would they just proceed on

1 the initial criminal complaint?

2 MS. BRADY: Objection. Form.

3 Foundation.

4 THE WITNESS: They are supposed to
5 get a preliminary hearing date, but most
6 murder cases -- in fact, I think all murder
7 cases are indicted by grand juries. They
8 don't give you preliminary hearings on
9 murder cases in Cook County.

10 BY MR. BRUEGGEN:

11 Q. Do you recall when whether
12 Mr. Iglesias's case -- strike that.

13 Do you recall whether
14 Mr. Iglesias was indicted by a grand jury
15 for the murder that you represented him?

16 A. I don't have any recollection of
17 saying it was a grand jury indictment, but I
18 would say he must have been indicted by the
19 grand jury. Because again, they don't give
20 you preliminary hearings, so it must have
21 been an indictment.

22 Q. Sir, having practiced criminal law
23 for a long time, are you familiar with the
24 documents from a grand jury in a grand jury

1 indictment?

2 A. Sure.

3 (Whereupon, DeLeon Deposition
4 Exhibit No. 3 was
5 screen-shared/referenced.)

6 BY MR. BRUEGGEN:

7 Q. Sir, I'd like to show you what we
8 will mark as -- sorry, sir. Did you say
9 something?

10 A. No.

11 Q. Okay. I'd like to show you what
12 we will mark as Exhibit 3. And for the
13 record, this is Iglesias 925.

14 Sir, do you see a document up
15 on your screen?

16 A. Yes.

17 Q. And I will zoom in. You can see
18 there is just -- it appears to be a stamp,
19 and I'll zoom into that so it's a little
20 easier to read. Do you see that, sir?

21 A. Yes, I do.

22 Q. And do you know what this stamp
23 is?

24 A. Well, it appears to be a

1 verification that a true bill was presented
2 by the grand jury on June 25, 1993. It
3 doesn't have a case number. It has a grand
4 jury number, June 676, and it doesn't have a
5 name on this document.

6 Q. Does this have an Assistant
7 State's Attorney's name? You see that, it
8 says Mary Roberts, I believe?

9 A. Mary Roberts, but it doesn't have
10 a defendant's name, right.

11 Q. Do you know Mary Roberts?

12 A. It doesn't ring a bell.

13 Q. You did not know her as an
14 Assistant State's Attorney back in the '90s?

15 A. I may have, but I don't remember.

16 Q. Fair enough. Does this document
17 that we have marked as Exhibit 3 indicate
18 that Mr. Iglesias's case was presented to
19 the grand jury on June 25th of 1993?

20 MS. BRADY: Objection.
21 Foundation.

22 THE WITNESS: I can only tell you
23 it says, True Bill Presented Grand Jury,
24 Mary Roberts, State's Attorney, and then it

1 has a date June 25, '93, and the grand jury
2 number 676, but it doesn't have
3 Mr. Iglesias's name on it, so I can't tell
4 you that this is the document of Iglesias.

5 BY MR. BRUEGGEN:

6 Q. I understand you. Can you tell us
7 what --

8 A. Unless there is another page
9 but --

10 Q. Can you tell us whether this
11 indicates that some case was presented to
12 the grand jury?

13 A. Right, some case.

14 MS. BRADY: Objection.
15 Foundation.

16 BY MR. BRUEGGEN:

17 Q. Sir, when you are representing a
18 criminal defendant -- again, this is a
19 general question. Would you be aware when
20 their case is being presented to the grand
21 jury if you were representing them at that
22 time?

23 A. No. The State doesn't notify us,
24 and we are not allowed to be present.

1 (Whereupon, DeLeon Deposition
2 Exhibit No. 4 was
3 screen-shared/referenced.)

4 BY MR. BRUEGGEN:

5 Q. Sir, showing you what we will mark
6 as Exhibit 4, which for the record is
7 Iglesias 2138 through 2139.

8 Sir, do you see a document up
9 on your screen?

10 A. Yes, I do.

11 Q. Are you able to read that?

12 A. Yes, I do. I can.

13 Q. And --

14 A. It says, People versus Geraldo
15 Iglesias, Grand Jury No. 676.

16 Q. Sir, have you ever seen a document
17 like this? And I want to make sure you see
18 both pages. So there is this first page
19 that has a file stamp over to the right, and
20 then the second page.

21 A. Right.

22 Q. Sir, can you identify what this
23 document is?

24 A. It's the grand jury indictment of

1 Geraldo Iglesias with a copy of the charge.

2 Q. And can you see the file stamp
3 over in the corner?

4 A. Yes.

5 Q. Let me zoom in, so it's a little
6 easier to read. You can see it dated July
7 8, 1993?

8 A. Yes.

9 Q. Would that indicate that
10 Mr. Iglesias would have been indicted, and
11 it would have been filed on July 8th of
12 1993?

13 MS. BRADY: Objection.
14 Foundation.

15 THE WITNESS: Yes.

16 BY MR. BRUEGGEN:

17 Q. Sir, on this slip, it lists
18 witnesses. Do you see that?

19 A. Yes.

20 Q. Does that list all the witnesses
21 who testified at the grand jury?

22 MS. BRADY: Objection.
23 Foundation.

24 THE WITNESS: It says Detective R.

1 Guevara, witness.

2 BY MR. BRUEGGEN:

3 Q. That was a poor question.

4 A. I assume that means he was the
5 only witness that testified at the grand
6 jury.

7 Q. Sir, having not been a State's
8 Attorney, do you have any experience in
9 dealing with the grand jury?

10 MS. BRADY: Objection. Form.

11 THE WITNESS: I have been present
12 with clients who were pleading the Fifth
13 before the grand jury in Cook County several
14 times. That's the only experience I have
15 dealing with the grand jury.

16 BY MR. BRUEGGEN:

17 Q. So earlier you told us that
18 normally the criminal defense attorney
19 wouldn't be notified of a grand jury
20 proceedings but --

21 A. Yes.

22 Q. -- if a client you represented was
23 being subpoenaed for the grand jury, then
24 you could be a party to it?

1 A. Right.

2 Q. Okay. Thank you for the
3 clarification, sir.

4 Having seen what we have
5 marked as Exhibit 4, indicating the grand
6 jury indictment was filed on July 8th of
7 1993, does that refresh your recollection
8 whether you were retained by Mr. Iglesias
9 before or after he was indicted?

10 A. It doesn't give me any specific
11 recollection, no.

12 Q. Sir, back to you educating me on
13 criminal law. After an indictment is filed,
14 what's the next step after that in the
15 criminal process?

16 A. He'll be transferred to the chief
17 judge for arraignment.

18 Q. What is an arraignment?

19 A. Announcement of the charges and
20 defendant enters a plea normally of not
21 guilty at that time.

22 Q. At the arraignment, is anything
23 done with bail?

24 A. No.

1 Q. Would bail have normally been set
2 prior to an indictment and arraignment?

3 A. Yes, yes, it's done prior to the
4 preliminary hearing stage.

5 Q. If you are retained by a client
6 after their indictment prior to the
7 arraignment, do you normally appear on
8 behalf of your client at the arraignment?

9 A. Yes.

10 MS. BRADY: I am going to object
11 to the foundation and form just as to the
12 time frame.

13 BY MR. BRUEGGEN:

14 Q. Sir, let me ask, back in 1993 if
15 you were retained by a client prior to their
16 arraignment, would you then represent them
17 at the arraignment?

18 A. Either I or somebody who I sent if
19 I couldn't be there for some reason. But if
20 I was his lawyer, yes.

21 Q. As you sit here today, do you have
22 any recollection of whether you were at
23 Mr. Iglesias's arraignment?

24 A. No, I don't remember.

1 (Whereupon, DeLeon Deposition
2 Exhibit No. 5 was
3 screen-shared/referenced.)

4 BY MR. BRUEGGEN:

5 Q. Sir, I am going to share another
6 document with you. And for the record, this
7 is Iglesias page 303 through 314, and we
8 will mark this as Exhibit 5.

9 And this is a report of
10 proceedings from August 23, 1993, in the
11 Iglesias case. Let me share that with you,
12 and then I am going to give you an
13 opportunity to review it as much as you'd
14 like. Okay, sir?

15 A. Okay.

16 Q. Sir, do you see a document up on
17 your screen?

18 A. Yes.

19 Q. Are you able to read that or do
20 you need me to zoom in?

21 A. No. I can read it.

22 Q. Okay. Do you see the first page
23 is the case of People of the State of
24 Illinois versus Geraldo Iglesias?

1 A. Right.

2 Q. And the case number 93 15199?

3 A. Yes.

4 Q. With the charge of murder?

5 A. Yes.

6 Q. And again, the date is August 23,
7 1993. Do you see that, sir?

8 A. Yes, I do.

9 Q. And under appearances, it says
10 Mr. John DeLeon appeared on behalf of the
11 defendant. Do you see that, sir?

12 A. Yes.

13 Q. And Mr. John DeLeon is yourself,
14 right?

15 A. Right.

16 Q. Having reviewed or -- strike that.

17 Let me -- would you like to
18 read the transcript, sir, and then I can ask
19 you some questions about it?

20 A. No.

21 Q. Having reviewed the first page of
22 Exhibit 5, does that refresh your
23 recollection as to whether you were present
24 for Mr. Iglesias's arraignment?

1 MS. BRADY: Objection.
2 Foundation. The transcript is a
3 continuance.

4 THE WITNESS: It doesn't jog my
5 memory or refresh my recollection. In other
6 words, I can't remember that I was there.
7 But the document says appeared on behalf. I
8 must have been there for the court reporter
9 to put that in there.

10 BY MR. BRUEGGEN:

11 Q. Okay, sir. And what I will do now
12 is I will go to page 3 of Exhibit 5. Do you
13 see that there is a court reported statement
14 of what occurred at Mr. Iglesias's
15 arraignment?

16 A. Right.

17 Q. And do you see there is -- go
18 ahead, sir.

19 A. It appears I am speaking, as
20 recorded by the court reporter. And I said,
21 "Mr. Iglesias is in custody. He has a new
22 charge. I see him up on Thursday according
23 to this for the original case he had on your
24 Honor's call."

1 So that must be what I said.
2 I don't, again, remember it, but it must be
3 what I said.

4 Q. Fair enough, sir. And I would
5 ask, generally, prior to stepping up in
6 representation of a client in arraignment,
7 would you have met with your client to
8 discuss the case?

9 MS. BRADY: Objection.
10 Foundation.

11 THE WITNESS: By that time, I
12 would have normally visited him at the jail
13 if there had been time enough to do that, or
14 I would speak to him in the lockup before
15 the case was called.

16 BY MR. BRUEGGEN:

17 Q. When you spoke to your clients,
18 what did you normally talk to them about
19 before the arraignment?

20 MS. BRADY: Objection.
21 Foundation. Form.

22 THE WITNESS: I would just tell
23 them what was going to happen.

24

1 BY MR. BRUEGGEN:

2 Q. Would you talk to them about
3 any -- I'm sorry, go ahead.

4 A. And I would tell them you are
5 going to be arraigned in a few minutes, and
6 we are going to get a continuance. I will
7 try and get the police reports and go visit
8 you would be the normal conversation for
9 arraignment day. But I have no independent
10 recollection of this.

11 Q. No, I understand, sir. I am just
12 asking just generally how you handled
13 meeting with clients before arraignments.

14 Would you talk to them about
15 details of the case, or was it simply just
16 explaining the procedure of the arraignment?

17 MS. BRADY: Objection. Foundation
18 and form.

19 THE WITNESS: Just to proceed
20 because we don't want to -- you want to talk
21 in private, and the lockup in the back is
22 not private. Everybody can hear what you
23 say.

24

1 BY MR. BRUEGGEN:

2 Q. And, sir, you read what is written
3 on page 3 of Exhibit 5 that "Mr. Iglesias is
4 in custody. He has a new charge. I see him
5 up on Thursday according to this call for
6 the original case."

7 Do you see that, sir?

8 A. Yes.

9 Q. Does that refresh your
10 recollection of whether Mr. Iglesias had
11 another case that you were representing him
12 on?

13 MS. BRADY: Objection.
14 Foundation.

15 THE WITNESS: It does not refresh
16 my recollection, but from reading it, he
17 must have had a case on the call already
18 because that's what it says.

19 BY MR. BRUEGGEN:

20 Q. And going down to line 9, it says,
21 attributed to Mr. DeLeon, "I am not sure
22 what the State wants to do. I assume they
23 will elect. The old case is up on Thursday,
24 a drug case."

1 Do you see that, sir?

2 A. Yes.

3 Q. Can you tell us what it means to
4 elect, for the State to elect?

5 A. Well, when there are two cases
6 pending on the same defendant, the State has
7 the right to chose which case they will
8 proceed on to prosecute first. And it's
9 their choice. The defense has no say-so in
10 it.

11 So they can choose -- for
12 example, if he had a prior case which was
13 pending on that judge's call, and then the
14 murder case came to the same judge, which
15 appears what happened, according to these
16 documents, the State would have to have time
17 to decide which case they were going to
18 prosecute first, and that's what is called
19 an election. They elect or choose which
20 case they are going to proceed on first.

21 Q. Sir, going back to Exhibit 5,
22 below where we just read, this is attributed
23 to you. "This is Geraldo Iglesias. John
24 DeLeon on his behalf. Acknowledge receipt

1 of discovery tendered."

2 Do you see that, sir?

3 A. Yes.

4 Q. Can you tell us what that means?

5 A. That would mean that the sheriff
6 just walked him into the courtroom, and I am
7 introducing him to the judge. Because
8 again, there's no camera. You have to put
9 everything on the record so that the court
10 reporter can type it down and everybody
11 knows what's going on who reads this
12 transcript.

13 So this is Geraldo Iglesias.
14 That's what you would normally say when the
15 person walks before the judge. And then you
16 identify yourself that you are appearing on
17 his behalf.

18 By that time, it appears the
19 State must have handed me some documents in
20 discovery because I say acknowledge receipt
21 of discovery tendered, whatever they
22 tendered. It's normally not complete
23 discovery at that moment in time. They give
24 you what limited discovery they have, and

1 that's what I am acknowledging.

2 Q. Sir, having reviewed that
3 transcript, do you have any recollection of
4 the volume of documents the State tendered
5 to you at that time?

6 A. No. That's why I'm saying, I
7 don't know what they tendered, but whatever
8 they handed me, I acknowledged receipt of.

9 Q. Sir, in your practice when the
10 State tendered discovery to you, would you
11 keep that separate from other documents in
12 your file, like a complete set of what the
13 State had given you at that point?

14 A. Right, you put it -- well, you put
15 it in your folder and separate it from other
16 documents, yes, normally.

17 Q. Why would you do that?

18 A. Just so you know what you were
19 tendered on that day, in case an issue comes
20 up about discovery, and they say, oh, well,
21 we gave you that on the last court date.
22 Then you have a folder that shows you what
23 they gave you on that court date, and you
24 can say, no, you didn't. This is all you

1 gave me, and you show it to them with the
2 date on the folder that says that's what was
3 given to you on that day. They also
4 normally have a document with the discovery
5 listing what they gave you with a date on
6 it.

7 Q. When you say a document, was that
8 like a form document that they would fill
9 out and list what they gave you, or was that
10 like a document they created?

11 A. A form document. It's a
12 preprinted document that will say State's
13 discovery, and then they -- at that time, in
14 handwriting, they would write down, copy of
15 Guevara police reports, copy of, you know,
16 whatever they gave you, you know. They
17 would list them.

18 Q. Do you have any recollection of
19 whether that occurred in Mr. Iglesias's
20 case?

21 A. I have no recollection of even
22 being there.

23 Q. Fair enough. After the State
24 tendered the initial discovery, would you

1 then review that discovery?

2 A. Sure.

3 Q. Would you review that with your
4 client as well?

5 A. Eventually.

6 Q. At that time, would you then take
7 it upon yourself or through an investigator
8 to track down various witnesses?

9 A. Sure.

10 Q. How would you determine which
11 witnesses to track down at that point after
12 getting initial discovery and talking to
13 your client about it?

14 MS. BRADY: Objection. Misstates
15 the testimony.

16 BY MR. BRUEGGEN:

17 Q. Go ahead, sir.

18 A. Normally, if the reports have
19 witnesses listed and what they said to the
20 police, you would put what they said. If
21 what they said is a narration, then you
22 would want to speak to them to verify that
23 narration or ask questions about that
24 narration.

1 So you'd pick them by order
2 of importance. If you read the reports and
3 there were three people listed that the
4 police talked to, if one of them said, I was
5 walking down the street, I heard a shot, but
6 I didn't see anything, well, you can put
7 that guy to the last because he's not going
8 to be a witness more than likely. He didn't
9 see anything, you know.

10 And if you come across one
11 that says, I was walking down the street, I
12 saw the whole thing, well, then you want to
13 send an investigator or go see that guy
14 right away, you know. And again, you would
15 kind of order of appearance, order of
16 importance, you would try and interview
17 them.

18 Eventually, you want to talk
19 to all the people that are listed because
20 just because somebody says, I didn't see
21 anything doesn't mean he didn't see
22 anything. It could mean, I don't want to be
23 involved. I don't want to say I saw
24 anything, so you still want to interview

1 that person.

2 Q. I appreciate that, sir. It sounds
3 like you are telling us you would triage so
4 you could talk to those people that appear
5 to have the most relevant information first,
6 but ultimately, you want to talk to
7 everybody?

8 A. Right.

9 Q. Sir, I am going to go through a
10 bunch of documents now. I just want to
11 check, do you want to take a break? It
12 would be a good time for a quick break if
13 you want to just stand up and stretch,
14 otherwise I can just move on ahead, but we
15 will be going through more documents now.

16 A. Okay, if you will give me just two
17 minutes.

18 Q. Not a problem, sir. We'll take a
19 break and come back in two minutes. Give us
20 two minutes, the court reporter is going to
21 read us off the record.

22 A. Okay.

23 THE VIDEOGRAPHER: We are off the
24 video record at 11:07 a.m.

1 (Whereupon, a break was taken
2 at 11:07 a.m. to 11:11 a.m.)

3 THE VIDEOGRAPHER: We are back on
4 the video record at 11:11 at the beginning
5 of Media Unit 2.

6 BY MR. BRUEGGEN:

7 Q. Mr. DeLeon, I want to ask you
8 about your experience up until about 1993
9 through 1995. At that time, do you know how
10 many trials you had done?

11 A. Murder cases or trials in general?

12 Q. Well, let's start with whichever
13 one is easier for you to estimate a number.

14 A. By that time, I probably tried 150
15 cases, probably 100 murder cases. I tried
16 so many, I really can't remember, to be
17 honest with you. I tried a lot with Sam
18 Adam. I tried a lot with Ed Genson. I
19 tried a lot of them alone. I didn't really
20 keep track of them other than to tell you
21 that every year, it was somewhere between 20
22 and 25 trials; benches, juries. I tried a
23 lot of cases by 1993 from 1977.

24 Q. And were the majority of those

1 cases in Cook County regarding Chicago
2 Police Department investigations?

3 A. The majority, yeah. But I've
4 traveled all over the United States and
5 tried cases, actually. I have been in 12
6 states doing mostly drug cases, but the
7 traveling comes into play.

8 Q. Are you licensed in any other
9 states other than Illinois and Indiana?

10 A. No, no, not licensed. But as a
11 trial lawyer, all you need is a local
12 counsel, and you can try a case in any state
13 in the United States.

14 Q. A pro hac vice?

15 A. Right.

16 Q. Do you do any work in federal
17 court?

18 A. Limited, but yes. I tried several
19 cases in federal court, not as much as state
20 court, of course.

21 I have kind of a policy, I try
22 to stay out of federal court if I can
23 because it's well-known that federal
24 government wins 95 percent of their juries.

1 I like to win. I don't like to get beat up
2 every time I go to court, so I try to take
3 cases in state court where I can still win,
4 and I do have or did have a pretty good
5 victory rate. The last two years we haven't
6 done much because of the pandemic, you know.

7 Q. Sir, so in about 1993 to '95, what
8 was your victory rate at that point in your
9 career up to that point?

10 A. I am just going to give you a wild
11 estimate, about 75 percent on trials.

12 Q. So it's fair to say that by '93,
13 you were a pretty successful criminal
14 defense trial attorney?

15 A. Yes, I was.

16 Q. Sir, also in 1993, were you pretty
17 familiar with the various documents created
18 by the Chicago Police Department?

19 A. Yes, I was.

20 MS. BRADY: Objection. Vague.
21 Sorry, that was my fault.

22 Dave, can you finish your
23 question.
24

1 BY MR. BRUEGGEN:

2 Q. Yes. Let me just rephrase it.

3 By 1993, were you familiar
4 with the various documents that were created
5 by the Chicago Police Department for
6 criminal investigations?

7 MS. BRADY: Objection.
8 Foundation.

9 THE WITNESS: Pretty much. I've
10 seen every document that they use normally.

11 (Whereupon, DeLeon Deposition
12 Exhibit No. 6 was
13 screen-shared/referenced.)

14 BY MR. BRUEGGEN:

15 Q. Sir, I am going to show you a
16 document. And for the record, this is RFC
17 Iglesias 56 and 57. I'm going to put it up
18 on the screen and I'm going to give you a
19 second to look at it, and then I'll ask you
20 some questions, okay?

21 A. Okay.

22 Q. Sir, do you see a document up on
23 your screen?

24 A. Yes.

1 Q. And are you able to read that, or
2 do you need me to zoom in?

3 A. No. I can see it.

4 Q. And this is the first page. Let
5 me know when you are done looking at the
6 first page, and then I will show you the
7 second page.

8 A. Okay, I have read it.

9 Q. And here is the second page of
10 that document.

11 MR. BRUEGGEN: Rachel, for the
12 record, we will mark this as Exhibit 6.

13 MS. BRADY: Thanks.

14 BY MR. BRUEGGEN:

15 Q. Sir, having had a chance to review
16 Exhibit 6, which is RFC Iglesias pages 56
17 and 57, can you tell us generally what that
18 document is?

19 A. It looks like an initial police
20 report and looks like it was written by
21 Officer Zuniga, down at the bottom, an
22 incident that happened June 7, 1993, and
23 describes a shooting.

24 Q. Sir, if I called it a general

1 offense case report, does that refresh your
2 recollection as to what this document is
3 called?

4 A. Sounds right, general offense case
5 report.

6 Q. And do you know when this document
7 is normally created with an investigation?
8 Beginning, middle, end?

9 A. Beginning.

10 MS. BRADY: Objection.
11 Foundation.

12 BY MR. BRUEGGEN:

13 Q. In your time practicing in Cook
14 County up until 1993, I'm sure you had seen
15 documents of this form many times?

16 A. Many times.

17 Q. And, sir, what information does
18 this document contain?

19 A. Well, it just explains that there
20 was a shooting by an offender, who according
21 to this, walked out of a walkway or yelled
22 "King Love" and started shooting at people.

23 Q. Sir, having reviewed Exhibit 6,
24 does that refresh your recollection as to

1 your defense representation of Mr. Iglesias?

2 A. No, it doesn't. This doesn't have
3 Mr. Iglesias's name on it anywhere, and
4 nothing on this document reminds me of the
5 Iglesias case. In fact, it says here that
6 the person yelled "King Love." As far as I
7 remember, Iglesias was a Cobra. He was not
8 a Latin King.

9 Q. And, Mr. DeLeon, I will represent
10 to you that this is the general offense case
11 report for the murder for which Mr. Iglesias
12 was convicted when you represented him,
13 okay?

14 A. Okay.

15 Q. In addition to information about
16 the crime, this document also lists
17 information about witnesses, right?

18 A. Yes, it does.

19 Q. And is this -- the information
20 about witnesses, would these be the
21 witnesses that you would then -- I use the
22 term "triage," but look at to determine who
23 you want to talk to potentially?

24 A. Right. If this is a report on his

1 case, we would read it, and eventually try
2 to talk to these people.

3 Q. On Exhibit 6, there are witnesses
4 listed right here, which is about one-third
5 of the way down. Do you see that, sir?

6 A. Yes.

7 Q. I will try and highlight. It
8 doesn't highlight very well.

9 Also on the second page,
10 there's witnesses who are listed in the
11 narrative section. Do you see those?

12 A. Yes.

13 Q. And for the witnesses, it provides
14 some general information about the witness,
15 contact information?

16 A. Right.

17 Q. And for some witnesses, it also
18 provides some substantive information about
19 what they witnessed or what they heard. Do
20 you see that?

21 A. Right.

22 Q. And looking at Exhibit 6, I want
23 to direct you to starting right here. Do
24 you see where I am highlighting?

1 A. Yes.

2 Q. The bottom of the first column?

3 A. Yes.

4 Q. It says, school bus driver Arnell
5 from Mavis Bus Company?

6 A. Right.

7 Q. Male 1/35, there is a phone
8 number, was unloading a handicapped child,
9 and also saw the shooting. Do you see that,
10 sir?

11 A. Yes.

12 Q. Sir, in reviewing this, would that
13 be somebody that you would want to
14 interview?

15 A. Yes.

16 Q. And then after that, it notes,
17 Sarah Torres, provides her address and her
18 phone number and says, her son relates that
19 he saw the offender come out of the Boys
20 Club at Sawyer and Palmer. Do you see that,
21 sir?

22 A. Yes.

23 Q. And would that indicate to you
24 that you would want to interview Ms. Torres

1 and her son?

2 MS. BRADY: Objection.

3 Foundation.

4 THE WITNESS: Yes.

5 BY MR. BRUEGGEN:

6 Q. As you sit here today, do you
7 recall if you talked to any -- either the
8 bus driver or Ms. Torres or her son about
9 this case?

10 A. I have no recollection about who
11 was interviewed or when or -- or whether I
12 or anyone else did. I just don't remember
13 the case. This does not refresh my
14 recollection.

15 Q. Fair enough. Fair enough.

16 But, in general, that
17 information that the witnesses with the
18 contact information would be information you
19 would use to track down these witnesses if
20 you chose to interview them?

21 MS. BRADY: Objection.

22 THE WITNESS: Right.

23 MS. BRADY: Foundation and form.

24

1 (Whereupon, DeLeon Deposition
2 Exhibit No. 7 was
3 screen-shared/referenced.)

4 BY MR. BRUEGGEN:

5 Q. Showing you what we will mark as
6 Exhibit No. 7. I'm going to put a document
7 up on your screen and I'm going to let you
8 look at it just like the last one so you are
9 comfortable with it, and then I will ask you
10 questions, okay, sir?

11 MR. BRUEGGEN: For the record,
12 Exhibit 7 will be RFC Iglesias pages 59 and
13 60.

14 BY MR. BRUEGGEN:

15 Q. Sir, do you see a document up on
16 your screen?

17 A. Yes.

18 Q. And can you read it?

19 A. Yes.

20 Q. Why don't you take time to look at
21 the first page, and then I will show you the
22 second page.

23 A. Okay.

24 Okay.

1 Q. Having had a chance to look at
2 Exhibit 7, do you see that Exhibit 7 lists
3 people's names and contact information?

4 A. Yes.

5 Q. And do you recall that some of the
6 people's names and contact information were
7 also included in Exhibit 6, the general
8 offense case report, or the initial report
9 that we talked about?

10 A. If you say they were listed.

11 Q. I can go back and show you Exhibit
12 6 if you want.

13 A. I am just telling you, I don't
14 remember what's listed. I assume some of
15 them is a list of witnesses by hand by the
16 detective, and the other report is the typed
17 report with the witnesses listed. That's
18 what it appears to me.

19 Q. Sir, looking at the second page of
20 Exhibit No. 7 --

21 A. Right.

22 Q. -- directing you to, there is a
23 list of witnesses. Do you see that?

24 A. Yes.

1 Q. And then there is some indication
2 that Rosendo Ochoa was a pedestrian, and
3 then the next four people listed there,
4 there is reference to a car. Do you see
5 that?

6 A. Yes.

7 Q. Does that refresh your
8 recollection as to any of the details in
9 Mr. Iglesias's case as to whether a car was
10 involved?

11 A. No.

12 Q. Going back to the first page of
13 Exhibit 7, it lists a person, Bernice
14 Bullocks?

15 A. Okay. Bernice Bullocks.

16 Q. Do you see that, sir, right here?

17 A. Yes.

18 Q. Can you make that out?

19 A. Yeah.

20 Q. And there's a Hyatt S. Bullocks?

21 A. Right.

22 Q. Bus driver Arnell and a Torres,
23 Sarah. Sir, do you see that?

24 A. Right.

1 Q. And going back to Exhibit 6, do
2 you see those are the same people that are
3 listed in the general offense case report in
4 the narrative section?

5 A. Yes.

6 Q. And under Sarah Torres at the
7 bottom, do you see there is a note -- and I
8 am looking at the printed, and it says, "Son
9 came from boys club." Sir, do you see that?

10 A. Yes.

11 Q. Do you recall that was the same
12 information that was attributed to her in
13 the general offense case report?

14 MS. BRADY: Objection. Misstates
15 the record.

16 BY MR. BRUEGGEN:

17 Q. Sir, you see that the information
18 about Ms. Torres' "Son came from boys club"
19 also indicates -- is the information that
20 Ms. Torres indicates in Exhibit 6 now that
21 relates that he saw an offender come out of
22 the boys club. Do you see that?

23 A. Right.

24 Q. Same general information that the

1 boys club was relevant to this crime?

2 A. Right.

3 Q. Then, sir, over on the left, there
4 is some cursive handwriting. I am going to
5 do my best to box it. Do you see this, sir?

6 A. Yes.

7 Q. Let me zoom in. Do you see that
8 it says, "son came from the boys club." Do
9 you see that?

10 A. Yes.

11 Q. And that's the same as what is
12 written down below in regular handwriting?

13 A. Right.

14 Q. And below that, it appears, to say
15 "knows Shorti." Do you see that, sir?

16 MS. BRADY: Objection.

17 Foundation. I don't think that's what it
18 says but ...

19 BY MR. BRUEGGEN:

20 Q. Do you see right below, that
21 cursive where it says, "son came from the
22 boys club." It appears to say, "knows,"
23 k-n-o-w-s?

24 A. Right.

1 Q. And then after that, it says,
2 "Shorti," S-h-o-r-t-i? Do you see that?

3 MS. BRADY: Objection. Form.
4 Misstates the evidence.

5 THE WITNESS: I can't really read
6 that.

7 BY MR. BRUEGGEN:

8 Q. Can you make out any of those
9 letters, or you don't know what it says?

10 A. I see an "S" and "H." The rest of
11 it is a little bit blurry here, a little bit
12 squiggly.

13 Q. Do you see right before the down
14 arrow, there appears to be an "I" with a
15 pretty clear dot above it?

16 MS. BRADY: Objection. Form and
17 foundation and misstates the record.

18 THE WITNESS: It looks -- it could
19 be an "I."

20 MR. BRUEGGEN: Okay.

21 BY MR. BRUEGGEN:

22 Q. Sir, I want you to be able to see
23 me when I am asking questions because
24 sometimes, you know, it's easier to

1 understand.

2 In your practice as a criminal
3 defense attorney, are you familiar with what
4 a shorti is?

5 A. A short person, I guess.

6 Q. Are you aware of whether shorti
7 was slang for a younger person?

8 MS. BRADY: Objection.
9 Foundation.

10 THE WITNESS: I'm not sure. I
11 mean, the term is used for different things,
12 you know.

13 BY MR. BRUEGGEN:

14 Q. Can you tell us what in your
15 practice you've experienced shorti being
16 used to describe?

17 A. Well, again, it could be a short
18 person. It could be gang terminology for a
19 young gang member or for a small, young -- a
20 young gang member.

21 Gangs have levels, like they
22 have, for lack of a better term, senior
23 members and junior members, you know. And a
24 slang term for the junior members, the

1 little guys, the young kids would be a
2 shorti.

3 Q. I think you told us the
4 terminology is not necessarily just
5 affiliated with gangs. It's also affiliated
6 just generally with the culture at the time.
7 Do I understand you correctly?

8 A. Sure, yes. It could be just a
9 short person.

10 Q. Sir, in your practice as a
11 criminal defense attorney, were you familiar
12 with something called a scene supp. report
13 or a field investigation report?

14 A. Scene supp., you said?

15 Q. A scene supplementary report or a
16 field investigation report?

17 A. Oh, sure, sure, supplementary
18 report.

19 Q. And what was your understanding of
20 what that was?

21 A. It was just a follow-up report
22 after the initial report.

23 Q. Sir, I am going to show you
24 another document.

1 For the record, it's
2 Bates-stamped RFC Iglesias 48 to 55, and I
3 will mark this as Exhibit 8.

4 (Whereupon, DeLeon Deposition
5 Exhibit No. 8 was
6 screen-shared/referenced.)

7 BY MR. BRUEGGEN:

8 Q. Can you see this document up on
9 your screen?

10 A. Right, I do, supplementary report,
11 right.

12 Q. I am going to direct you down, you
13 see it's dated June 7th of '93?

14 A. Yes.

15 Q. Can you read that? And again, if
16 you need me to zoom in, because I know you
17 are working on a computer, but if something
18 is hard to read, just let me know. I can
19 zoom in because I want to make sure you can
20 see these documents.

21 A. Okay.

22 Q. I am going to scroll through this.
23 And having looked at this document, have you
24 seen documents like this before in your

1 practice as a criminal defense attorney?

2 A. Sure.

3 Q. Is this the type of document that
4 you would review to get more information
5 about a crime and potential witnesses and
6 how to defend a crime?

7 A. Yes.

8 Q. Sir, showing you the first two
9 substantive pages. Again, the first is a
10 cover page, but then the next two pages are
11 RFC49 and 50. Do you see that those have
12 headings at the left and then information on
13 the right?

14 A. Yes.

15 Q. And from looking at this, do you
16 recall this type of report being prepared by
17 Chicago Police Department for crimes?

18 A. Yes.

19 Q. And this provides general
20 information about the investigation of a
21 crime?

22 A. Yes.

23 Q. Including this example indicates
24 who the victim is, a description of the

1 wanted person, the injuries to the victim,
2 and where they were taken?

3 A. Right.

4 Q. And it also includes the location
5 of the incident, the date, time, weather and
6 lighting?

7 A. Yes.

8 Q. And again, this is general
9 background information about when this crime
10 occurred, right?

11 A. Yes.

12 Q. And then there is manner/motive.
13 Do you know what that is?

14 A. Yes.

15 Q. And what is manner and motive?

16 A. Well, how it happened, and I
17 suppose why it happened, motive.

18 Q. And then going to the second page,
19 RFC50, it indicates vehicle used. Do you
20 see that, sir?

21 A. Yes.

22 Q. It provides information about a
23 1982 Olds four-door blue vinyl top, gray
24 body, and provides the license plate number

1 and VIN number. Do you see that, sir?

2 A. Yes.

3 Q. And that's information that you
4 would use depending on the case as part of
5 your investigation of the criminal defense,
6 right?

7 A. Sure.

8 Q. And below that, there is something
9 that says evidence, and it lists photographs
10 of scene, photos of above auto, recovered
11 fired bullet from vinyl top. Do you see
12 that, sir?

13 A. Yes.

14 Q. As a criminal defense attorney,
15 that would indicate to you what evidence had
16 been collected, right?

17 A. Yes.

18 Q. And that would be evidence that
19 you would either want to have copies of or
20 be able to view, right?

21 A. Yes.

22 Q. And below that, it says, personnel
23 assigned. Did you understand that that
24 would be the police officers and detectives

1 who were assigned to investigate the case at
2 that time?

3 A. Yes.

4 Q. So that would provide you
5 information about which police officers were
6 involved, to the extent you wanted to talk
7 to them or interview any of them, right?

8 A. They would tell me who they were.
9 But I can guarantee you one thing, police
10 officers don't talk to defense attorneys
11 about their cases.

12 Q. Fair enough.

13 A. So, no, I would not try to talk to
14 them because I know they would not talk to
15 me. It's a waste of time.

16 Q. Understood. It would at least
17 give you their names if you needed to
18 subpoena them for trial, right?

19 A. That it would do.

20 Q. Below that, it says, witnesses.
21 Do you see that, sir?

22 A. Yes.

23 Q. And it lists witnesses going on to
24 the next page?

1 A. Yes. More witnesses.

2 Q. And then below that -- strike
3 that.

4 The witnesses, these are names
5 that we had seen in the other documents that
6 we previously looked at, right, the one
7 handwritten list of witness names, and then
8 the general offense case report?

9 A. Yes.

10 Q. And then below witnesses, it says
11 interview. Do you see that, sir?

12 A. Yes.

13 Q. And that would indicate which of
14 the witnesses had been interviewed?

15 A. Yes.

16 Q. Then there is to be interviewed,
17 which would indicate who still needed to be
18 talked to at that time?

19 A. Right.

20 Q. And then below that, it says,
21 investigation, and we get to a long
22 narrative. Do you see that, sir?

23 A. Right.

24 Q. And this investigation is kind of

1 meat and potatoes of this report where it
2 tells you what various witnesses said, and I
3 think you alluded to this earlier, that
4 there would be summaries of what witnesses
5 said, right?

6 A. Right.

7 Q. And so this would be something
8 that you would pay attention to in defending
9 a client to figure out which witness said
10 what, what information they had in order to
11 determine who you wanted to interview,
12 right?

13 A. Right.

14 MS. BRADY: I am just going to
15 object to the foundation to the extent that
16 this report doesn't necessarily accurately
17 reflect what the witnesses said. It just
18 has -- yeah, I will just leave it at that.

19 BY MR. BRUEGGEN:

20 Q. Mr. DeLeon, again, what I was
21 asking you is this is kind of a stepping-off
22 point for your investigation of a criminal
23 defense, is it would give you some
24 information about witnesses, but then you

1 would go and corroborate that yourself and
2 find out if they could help you otherwise,
3 right?

4 A. Right.

5 Q. You see here on page RFC Iglesias
6 54, it says, Sarah Torres?

7 A. Yes, right.

8 Q. And it has information attributed
9 to her?

10 A. Right.

11 Q. And then below that, it says,
12 Efrain Torres and has information attributed
13 to him?

14 A. Right.

15 Q. And you can tell from this that
16 Efrain Torres is the son of Sarah Torres,
17 and I will direct you to, it says, Torres
18 stated that he lives on the third floor of
19 [REDACTED] with his mother?

20 A. Right.

21 Q. And we know from Sarah Torres up
22 here that she lived on the third floor, same
23 unit, right?

24 A. Right.

1 Q. So we knew Sarah Torres, and we
2 knew what her son's name was, right?

3 A. Right.

4 Q. And this would be information that
5 you would have, and you would talk to your
6 client about who to interview, and what to
7 interview them about, and what happened,
8 right?

9 A. Right.

10 MS. BRADY: Objection.
11 Foundation.

12 (Whereupon, DeLeon Deposition
13 Exhibit No. 9 was
14 screen-shared/referenced.)

15 BY MR. BRUEGGEN:

16 Q. Sir, showing you another document.

17 For the record, this will be
18 marked as Exhibit No. 9, and it's RFC
19 Iglesias 40 through 42.

20 A. Okay.

21 Q. Sir, do you see this document up
22 on your screen?

23 A. Yes.

24 Q. Let me flip through this. Again,

1 this document is part of the documents you
2 have seen in your representation of criminal
3 defense in cases investigated by the Chicago
4 Police Department?

5 A. Yes.

6 Q. And specifically page RFC Iglesias
7 41, do you see it lists witnesses?

8 A. Yes.

9 Q. And David Chmielewski, Arnell
10 Moore, and Bernice Bullocks?

11 A. Yes.

12 Q. Do you recall that on the previous
13 document, there were some witnesses that
14 still needed to be interviewed?

15 A. Yes.

16 Q. So this indicates that those
17 witnesses had been interviewed at a
18 subsequent report?

19 A. Yes.

20 Q. And you can see it's dated the
21 June 8th of '93?

22 A. Yes.

23 Q. Sir, again this is the type of
24 document that you would review with the

1 client to determine if you needed to
2 yourself go out and interview these
3 witnesses or have an investigator do that?

4 A. Yes.

5 Q. Sir, just a general question about
6 when you were retained in a case, and there
7 was a flat rate for your representation,
8 would there also be an additional flat rate
9 for expenses to hire investigators, or was
10 it all in one fee?

11 A. I think pretty much in one fee.

12 Q. So it was a flat rate, and out of
13 that amount, you would then dictate whether
14 you could afford to hire investigators based
15 on the amount of work you would have to do?

16 A. Right.

17 Q. Do you have any recollection of
18 how much you charged for a -- did you charge
19 a flat rate for murder cases?

20 A. Every one was a little different.
21 But, in general, I think it was around
22 10,000 per murder case in the '90s.

23 Q. And would that change based on,
24 you know, if you will, how extensive the

1 murder case was? Or would it be \$10,000 up
2 to pretrial, and then for trial, it might be
3 more?

4 A. It could change, but I don't
5 remember exactly. I am just taking a guess.

6 Q. No problem, sir. I appreciate
7 your clarification. In your practice as a
8 criminal defense attorney, do you remember a
9 supplementary report called a clear close
10 report?

11 A. Yes.

12 Q. Is that a yes?

13 A. I believe so.

14 Q. Do you recall what that is?

15 A. It's a report that -- clear close,
16 I think it's a report that would make the
17 conclusion of who to put out a warrant for
18 or who to arrest or that an arrest was made.

19 Q. Do you recall whether clear close
20 reports would also provide substantive
21 information about the investigation?

22 A. Sure.

23

24

1 (Whereupon, DeLeon Deposition
2 Exhibit No. 10 was
3 screen-shared/referenced.)

4 BY MR. BRUEGGEN:

5 Q. I am going to show you what we
6 will mark as Exhibit 10, which is RFC
7 Iglesias 10 through 13, and I will put it up
8 on your screen and give you a chance to look
9 at it. Okay, sir?

10 A. Okay.

11 Q. Sir, do you see a document up on
12 your screen?

13 A. Yes.

14 Q. And I want to direct you down, you
15 see it's dated June 24th of '93?

16 A. Yes.

17 Q. And in custody, it says, Iglesias,
18 Geraldo?

19 A. Right.

20 Q. Sir, let me give you a chance to
21 read this to see if it refreshes your
22 recollection about Mr. Iglesias's case,
23 okay? I am going to show you the first
24 page. Is this legible to you?

1 A. Yes.

2 Q. And I will give you a moment to
3 read it, and then I will show you the next
4 page when you are done, and then the final
5 page after that. I would appreciate if you
6 would read it, sir.

7 A. Okay, let me read it.

8 Okay.

9 Q. I will show you the next page,
10 sir.

11 A. Okay.

12 Q. And the last page, sir.

13 A. Okay.

14 Q. Sir, having had a chance to review
15 Exhibit 10, does that refresh your
16 recollection about Mr. Iglesias's defense?

17 A. I don't have any independent
18 recollection other than what I just read.
19 It doesn't -- it doesn't take me back to the
20 case or remind of anything, no.

21 Q. Fair enough, sir. I want to
22 direct you to some parts of this case. You
23 see -- I am going to try to highlight it,
24 but this says, "This informant stated that

1 many members of the gang were talking about
2 Snake killing a girl in a car on Sawyer and
3 Palmer."

4 Do you see, sir?

5 A. Yes.

6 Q. Do you know what Mr. Iglesias's
7 nickname was?

8 A. I don't recall.

9 Q. And in your practice representing
10 criminal defendants, would you find out what
11 their nickname was to put it into context?

12 A. Sometimes, but it doesn't ring a
13 bell.

14 Q. Fair enough. Sir, you had a
15 chance to review Exhibit 10. It indicates
16 that a photo array was shown to the witness
17 Rosendo Ochoa. Do you recall reading that?

18 A. Right.

19 Q. He identified Mr. Iglesias out of
20 that photo array?

21 A. Right.

22 Q. And then Mr. Iglesias was picked
23 up and put in a lineup, right?

24 A. Yes, right.

1 Q. And in that physical lineup,
2 Mr. Ochoa identified Mr. Iglesias?

3 A. Right.

4 MS. BRADY: I am going to object,
5 Dave, again to the extent that this report
6 doesn't necessarily reflect what happened,
7 but just the detective's take or explanation
8 of what happened.

9 MR. BRUEGGEN: Okay.

10 BY MR. BRUEGGEN:

11 Q. And I am directing you to page RFC
12 Iglesias 12, the little number down in the
13 right-hand corner that we used, Bates
14 stamps.

15 A. Yes.

16 Q. And there is a section attributed
17 to an interview of Mr. Iglesias. Do you see
18 that, sir?

19 A. Yes.

20 Q. And you have had a chance to
21 review that?

22 A. Yes.

23 Q. And you saw that Mr. Iglesias
24 admitted to being a member of the Imperial

1 Gangsters street gang. Do you see that,
2 sir?

3 MS. BRADY: Objection.
4 Foundation.

5 THE WITNESS: Yes, I see that. I
6 thought he was a Cobra. But again, my
7 memory is so bad about this, so that I guess
8 I was mistaken if that's him saying he was
9 an Imperial Gangster.

10 But there was a gang called
11 Imperial Gangsters, and I did represent many
12 of those members also.

13 BY MR. BRUEGGEN:

14 Q. Sir, my question is: In this
15 report and having reviewed various things
16 made by your client, is that the type of
17 information you would have then reviewed
18 with your client to confirm that they, in
19 fact, said those things?

20 A. Sure, we would go over reports
21 together.

22 Q. And this --

23 A. I don't remember -- I don't
24 remember going over the reports with him.

1 And I don't remember whether he said that --
2 what he said to me, if he said anything
3 about --

4 MS. BRADY: Sorry. I am going to
5 put the same foundation objection that this
6 doesn't necessarily reflect what
7 Mr. Iglesias actually said.

8 MR. BRUEGGEN: And I appreciate
9 that, Rachel.

10 BY MR. BRUEGGEN:

11 Q. And what I am just getting at,
12 your course of practice would be if there is
13 a statement attributed to your client, your
14 course of practice would be to talk to your
15 client about that statement to find out if
16 it's true, if it's false, you know, what
17 additional information they have?

18 A. Sure.

19 Q. Right?

20 A. Right.

21 Q. And in this statement that's
22 attributed to your client, it indicated that
23 he had been in Chicago during the entire
24 month of June, but he does not recall what

1 he did on June 7th, '93, and has no alibi
2 for his whereabouts on that date.

3 Do you see that, sir?

4 A. Yes, I see that.

5 Q. And is that something that you
6 would have talked to your client about, a
7 potential alibi, and stuff of that nature?

8 A. Sure. But again, I don't remember
9 doing that.

10 Q. And in there, it notes that
11 Mr. Iglesias told the police that he gets
12 home from school at 1400 hours. Do you see
13 that, sir?

14 A. Yes.

15 Q. And is that something you would
16 have been aware of at the time that you were
17 representing Mr. Iglesias, whether he was in
18 school or whether he was working, and what
19 his hours were?

20 MS. BRADY: Objection. Form.

21 THE WITNESS: I -- again, whatever
22 it says there is what I would have read, if
23 that's their report.

24

1 BY MR. BRUEGGEN:

2 Q. I'm sorry, sir. I think that was
3 a bad question.

4 What I am asking is, was it
5 your course of practice to talk to your
6 clients about whether they had jobs, whether
7 they were going to school, and kind of what
8 hours they were at their job, and what hours
9 they were in school?

10 A. Sure.

11 Q. And that would be relevant to
12 potentially finding an alibi or make some
13 type of argument of impossibility based on
14 location, right?

15 A. Sure.

16 Q. After the section on talking to
17 Mr. Iglesias, there is reference to
18 contacting felony review and ASA Mike Latz
19 arriving at Area 5. Do you see that, sir?
20 It's right here.

21 A. Yes, I see it.

22 Q. Do you remember ASA Mike Latz?

23 A. No.

24 Q. Do you know what felony review is?

1 A. Felony review is the system that
2 the State's Attorney's Office has to
3 determine if a charge is going to be filed.
4 The police have to take their case to the
5 felony review assistant and get his
6 permission. So that State's Attorney
7 appears to be the one that would have okayed
8 the charges after the policemen showed this
9 report to the State's Attorney.

10 Q. Sir, do you see that that State's
11 Attorney also -- in your reviewing of this,
12 the State's Attorney also asked the police
13 to bring in additional witnesses to review
14 lineups?

15 A. Right.

16 Q. And then going to the last page,
17 specifically ASA Latz requested that two
18 other persons listed in the police reports
19 as potential witnesses, Efrain Torres and
20 David Chmielewski, be allowed to view
21 Mr. Iglesias in the lineup. Do you see
22 that, sir?

23 A. Right.

24 Q. And then a lineup was conducted

1 where Efrain Torres made no identification
2 and Mr. Chmielecki made no identification;
3 is that right?

4 A. Right, right.

5 Q. But Mr. Hugo Rodriguez did make an
6 identification and chose Mr. Iglesias,
7 according to the police report, right?

8 A. Right.

9 Q. When reviewing this, would Efrain
10 Torres and Chmielecki be more relevant as
11 witnesses since they were unable to identify
12 your client and they were potential
13 witnesses?

14 MS. BRADY: Objection. Form.

15 THE WITNESS: What was the
16 question again?

17 BY MR. BRUEGGEN:

18 Q. What I am getting at is both
19 Mr. Torres and Mr. Chmielecki viewed a
20 lineup in which your client was standing.
21 You understand that, right?

22 A. Right.

23 MS. BRADY: Objection. Sorry, I
24 am just going to object that -- the same

1 objection I have been making, which is it
2 characterizes as true the information in
3 this report.

4 BY MR. BRUEGGEN:

5 Q. Sir, setting that aside. What the
6 report indicates that Mr. Torres, Efrain
7 Torres and David Chmielewski viewed a lineup
8 that had your client as a participant in
9 that lineup, right?

10 A. Right.

11 Q. And that neither of them was able
12 to identify your client, right?

13 A. Right.

14 Q. And that potentially is
15 information that could be good for your
16 client's defense, that he wasn't picked out
17 by a potential witness, right?

18 A. Right.

19 Q. And would that make interviewing
20 Mr. Torres and Mr. Chmielewski more important
21 in representing your client?

22 MS. BRADY: Objection. Form.

23 THE WITNESS: It could.

24

1 BY MR. BRUEGGEN:

2 Q. And at the end, we see that
3 charges were approved, and looking right
4 here, according to the report, charges were
5 approved and Mr. Iglesias -- strike that.

6 In this report we see that
7 Mr. Latz, ASA Latz, approved charges of
8 first degree murder against Mr. Iglesias,
9 right?

10 A. That's what it says.

11 Q. Okay. And after that, that gets
12 us back to what we previously talked about
13 with the indictment and stuff of that
14 nature, it starts the criminal proceedings,
15 right?

16 A. Right.

17 Q. Sir, in your practice in the early
18 to mid-'90s, after you had reviewed the
19 records and speak to your client, if you
20 believed there was a good faith basis to
21 move to quash an arrest and suppress
22 evidence discovered after that arrest, would
23 you file that motion?

24 MS. BRADY: Objection. Form.

1 THE WITNESS: I would file
2 whatever motion I thought was appropriate.

3 BY MR. BRUEGGEN:

4 Q. So if after looking at records and
5 talking to your client you believed that the
6 arrest was improper, you would file a motion
7 to quash that arrest?

8 A. Sure.

9 Q. And in this case, I will represent
10 to you that you did not file a motion to
11 quash the arrest of Mr. Iglesias. Okay,
12 sir?

13 A. Okay.

14 Q. Based on that, would it be fair to
15 believe that you did not believe it was
16 appropriate to file a motion to quash the
17 arrest?

18 MS. BRADY: Objection. Foundation
19 and form.

20 THE WITNESS: I would say yes.

21 BY MR. BRUEGGEN:

22 Q. If Mr. Iglesias claimed any abuse
23 by the police, that would be something that
24 would be a basis of a motion to quash,

1 right?

2 A. Yes, could be.

3 Q. And, sir, I am about to move into
4 another section. We have been going for
5 about an hour. I just want to offer a break
6 to you. I know this might be your first
7 dep. I just want to make sure you
8 understand we take breaks. So if you want
9 to take a quick break, we can, or I can just
10 go into the next section.

11 A. Let's keep going.

12 Q. Okay. And, sir, earlier we talked
13 about you receiving the initial tender of
14 documents from the State. Do you remember
15 that, it was in the transcript?

16 A. In the transcript, yes.

17 Q. Yes.

18 A. But I don't remember it.

19 Q. That's correct. According to the
20 transcript, you received the initial tender
21 of documents on August 23rd of 1993?

22 A. Right.

23 Q. Do you recall whether that initial
24 tender of documents had reference to a

1 witness by the name of Francisco Vicente?

2 A. I do not recall.

3 Q. Does the name Francisco Vicente
4 mean anything to you as you sit here today?

5 A. I really don't recall.

6 Q. Do you recall when representing
7 Mr. Iglesias that a witness who was a
8 jailhouse informant came forward against
9 your client?

10 A. I recently had a conversation with
11 Donna Makowski, and she reminded me that
12 there was a jailhouse informant, but I
13 didn't have any independent recollection of
14 it.

15 Q. When did you have that information
16 with Ms. Makowski?

17 A. In the last two weeks maybe.
18 After I got the subpoena. I don't remember
19 the exact date. It had to be in the last
20 few weeks.

21 Q. Did you reach out to Ms. Makowski
22 after you received the subpoena?

23 A. I called her to just let her know
24 that she might get a subpoena because I did

1 remember that she was in the trial with me.
2 Or actually, I don't remember if she called
3 me about that. Maybe she heard about it
4 first.

5 I don't remember to be honest
6 with you, but we had a conversation where
7 she reminded me that there was a jailhouse
8 informant in the case, but I didn't remember
9 the name.

10 Q. Okay. Did Ms. Makowski remind you
11 of anything else from your representation of
12 Mr. Iglesias?

13 A. Not that I can recall right now.

14 Q. Do you recall her saying anything
15 about the jailhouse informant?

16 A. Other than that I think she said
17 he had been an informant in several cases,
18 that this wasn't the only case he was an
19 informant on, kind of like a professional
20 witness, I'd say. That's the conversation
21 we had.

22 Q. And was your conversation with
23 Ms. Makowski solely based on this jailhouse
24 informant?

1 A. That's the part I remember.

2 Q. Did you talk substantively about
3 the crime that Mr. Iglesias was charged
4 with?

5 A. Not really because I didn't have
6 any recollection of it other than it being a
7 murder.

8 Q. Did Ms. Makowski try to remind you
9 of any of the details?

10 A. Try to remind me? No.

11 MS. BRADY: Objection to form.

12 THE WITNESS: I just -- just said
13 it in passing.

14 BY MR. BRUEGGEN:

15 Q. After Ms. Makowski reminded you
16 that there was an informant, a jailhouse
17 informant that was involved in several
18 cases, did you recall how that informant fit
19 into Iglesias's case?

20 A. No.

21 Q. In representing criminal
22 defendants, have you had multiple cases
23 where there's a jailhouse informant?

24 MS. BRADY: Objection. Form.

1 THE WITNESS: I can't remember
2 another case where there was a jailhouse
3 informant.

4 BY MR. BRUEGGEN:

5 Q. Again, is a jailhouse informant,
6 is that a common thing that happens in
7 criminal cases, or is it relatively rare?

8 MS. BRADY: Objection. Form and
9 foundation.

10 THE WITNESS: I don't know if it's
11 rare, but I -- in my experience, it didn't
12 happen too often, but it happens.

13 BY MR. BRUEGGEN:

14 Q. I will represent to you in this
15 case, Mr. Francisco Vicente was
16 incarcerated with Mr. Iglesias and
17 Mr. Vicente gave a statement in which he
18 said Mr. Iglesias confessed to him. Okay,
19 sir?

20 A. Okay.

21 Q. With that, with my representation,
22 would you have wanted to interview
23 Mr. Vicente?

24 A. Sure.

1 MS. BRADY: Objection. Form and
2 foundation.

3 BY MR. BRUEGGEN:

4 Q. Why would you have wanted to
5 interview Mr. Vicente?

6 A. He was an alleged witness. We'd
7 want to talk to him.

8 Q. Do you have any recollection of
9 whether you were able to interview
10 Mr. Vicente in Mr. Iglesias's case?

11 A. I have no recollection.

12 Q. Sir, I am going to show you a
13 couple of documents that are reports of
14 proceedings, just very quickly, and then I
15 will have some follow-up questions, okay?

16 For the record, this will be
17 Exhibit 11, and it is Bates-stamped Iglesias
18 2297 through 2302 and is a report of
19 proceedings from January 12, 1994.

20 (Whereupon, DeLeon Deposition
21 Exhibit No. 11 was
22 screen-shared/referenced.)

23 BY MR. BRUEGGEN:

24 Q. Sir, do you see a document up on

1 your screen?

2 A. Yes, I do.

3 Q. Do you see this is a report of
4 proceedings in the case of People of the
5 State of Illinois versus Geraldo Iglesias,
6 dated January 12, 1994?

7 A. Yes.

8 Q. I want to direct you to page
9 Iglesias 2298 and towards the bottom.

10 A. Okay.

11 Q. Starting at line 18, if you can
12 just read that.

13 A. Okay.

14 Q. To be complete, I want to give you
15 the rest of it.

16 A. Okay.

17 Q. I don't know if you read this
18 here, but I will represent to you, and I am
19 sure Rachel will confirm, that it appears to
20 be a mistranscription, but the witness's
21 name was Francisco Vicente, and they have it
22 as Bacenti?

23 A. Correct.

24 Q. Having looked at that, is that

1 consistent with what you told me earlier
2 that you would have wanted to interview
3 Mr. Vicente, who was incarcerated?

4 A. Right.

5 Q. And it appears that you attempted
6 to, but were unable to get in because he was
7 in protective custody?

8 A. Right, that's what it says.

9 (Whereupon, DeLeon Deposition
10 Exhibit No. 12 was
11 screen-shared/referenced.)

12 BY MR. BRUEGGEN:

13 Q. For now I am going to share
14 another report of proceedings from March
15 24th of '94 that we will mark as Exhibit 12.

16 And for the record, it's
17 Iglesias 2303 through 2306.

18 A. Okay.

19 Q. Sir, do you see a document up on
20 your screen?

21 A. Yes.

22 Q. And again, this is from the case
23 against Mr. Iglesias, and it's dated March
24 24th of '94. Do you see that, sir?

1 A. Yes.

2 Q. And I am going to direct you to
3 the second page, and direct you to -- if you
4 could just read what is attributed to you on
5 that page.

6 A. Okay.

7 Q. And, sir, having reviewed that,
8 does that refresh your recollection as to
9 whether you were able to interview
10 Mr. Vicente?

11 A. It doesn't remind me what happened
12 back then. I understand what it says.

13 Q. Fair enough. And you wouldn't
14 represent to the Court that you were able to
15 interview a witness unless you actually had
16 been able to interview the witness, right?

17 A. Right.

18 MS. BRADY: Objection. Form.

19 BY MR. BRUEGGEN:

20 Q. Sir, when you interview witnesses
21 yourself, would you take notes?

22 A. Sure.

23 Q. Would you create any type of
24 formal memo or anything like that?

1 A. Just my notes, handwritten notes
2 on a yellow pad, put it in the file, and
3 save it.

4 Q. To the extent that you interviewed
5 Mr. Vicente and took notes, those would be
6 things that you would have kept in your
7 file?

8 A. Right.

9 Q. And that would be stuff you would
10 want to have handy to be able to use at
11 trial?

12 A. Right.

13 (Whereupon, DeLeon Deposition
14 Exhibit No. 13 was
15 screen-shared/referenced.)

16 BY MR. BRUEGGEN:

17 Q. Sir, I am going to show you
18 another document that was filed with the
19 Court on March 24, 1994, in Mr. Iglesias's
20 case, and I want you to just take a second
21 and review it if you would, please.

22 We will mark this Exhibit 13.
23 And for the record, it's Iglesias 2156 and
24 2157.

1 Sir, do you see a document up
2 on your screen?

3 A. Yes.

4 Q. And let me show you the second
5 page of that. Do you see a signature there?

6 A. Yes.

7 Q. Is that your signature?

8 A. Yes.

9 Q. And can you tell us what this
10 document is?

11 A. I am asking for supplemental
12 discovery, and we are asking what I asked
13 for in the transcript, for the discovery of
14 what other cases Mr. Vicente had given
15 statements on and copies of the statements.

16 Q. So again, this is, if you will, a
17 formalized request for supplemental
18 discovery --

19 A. Right.

20 Q. -- that you had orally represented
21 to the Court?

22 A. Right.

23 Q. Was this request, in part, based
24 on your interview of Mr. Vicente?

1 A. I don't know. I don't remember
2 interviewing Mr. Vicente, but it appears to
3 be.

4 MS. BRADY: Objection. Form and
5 foundation to that last question.

6 BY MR. BRUEGGEN:

7 Q. Sir, are you done with your
8 answer?

9 A. Yes.

10 (Whereupon, DeLeon Deposition
11 Exhibit No. 14 was
12 screen-shared/referenced.)

13 BY MR. BRUEGGEN:

14 Q. So I want to show you another
15 document from the case. We will mark this
16 as Exhibit 14. And for the record, it's
17 Iglesias 2158.

18 A. Okay.

19 Q. Sir, do you see a document on your
20 screen in Mr. Iglesias's case that appears
21 to be stamped May 6, 1994?

22 A. Okay. Okay.

23 Q. Do you see that document, sir?

24 A. Yes, I have read it. I see the

1 date, yes.

2 Q. And this document is a motion for
3 more specific discovery that was filed?

4 A. Right, right.

5 Q. And it's signed by Ms. Makowski,
6 but you and her were working on this case
7 together, right?

8 A. Right.

9 Q. And again, you were looking for
10 specific information about all compensation,
11 monetary and non-monetary compensation for
12 Mr. Vicente?

13 A. Right, right.

14 Q. Why were you looking for that,
15 sir?

16 A. Well, if a witness is paid money
17 or given special favors at the jail for
18 giving information and informing on someone,
19 it would go to his credibility, so I am
20 asking for the information to see what they
21 gave him.

22 Q. And based on the last two
23 exhibits, your supplemental motion for
24 discovery and your motion for more specific

1 discovery, do you recall whether the State
2 responded to those motions?

3 A. Don't remember.

4 Q. And if the State had not responded
5 to those motions, would you have brought it
6 up to the Court?

7 A. Sure.

8 Q. Would you have made sure that you
9 got responses to those motions before going
10 to trial?

11 A. Sure.

12 MS. BRADY: Objection.
13 Foundation, to the extent he wouldn't
14 necessarily know if he had received complete
15 responses.

16 BY MR. BRUEGGEN:

17 Q. I'm sorry, sir. Did you answer?

18 A. I forgot the question.

19 Q. Yeah. My question was, if you had
20 not received responses to your motions for
21 specific discovery regarding Mr. Vicente,
22 would you have gone to trial representing
23 Mr. Iglesias not having received the
24 responses?

1 A. Probably would --

2 MS. BRADY: Objection. Go ahead.

3 THE WITNESS: I would have asked
4 the judge to order the State to give me an
5 answer to those questions, and I'm sure the
6 judge would make sure that that was
7 answered.

8 BY MR. BRUEGGEN:

9 Q. And that would be important
10 because for the reasons you said, it gives
11 you information to help defend your client
12 against Mr. Vicente's testimony?

13 A. Right, right.

14 (Whereupon, DeLeon Deposition
15 Exhibit No. 15 was
16 screen-shared/referenced.)

17 BY MR. BRUEGGEN:

18 Q. Sir, I am going to show you
19 another document, which we will mark as
20 Exhibit 15.

21 For the record, this is
22 Iglesias 2159.

23 A. Okay.

24 Q. Sir, do you see a document up on

1 your screen?

2 A. Yes.

3 Q. And you see that it was filed in
4 Mr. Iglesias's case, and it's titled
5 "Supplemental Answer"?

6 A. Right.

7 Q. Can you tell us what this document
8 is, sir?

9 A. It says supplemental answer, and
10 it lists three witnesses.

11 Q. You signed that document, sir?

12 A. Yes.

13 Q. And so does this indicate that
14 those are witnesses that you and
15 Mr. Iglesias may rely on in his defense of
16 the criminal case against him?

17 A. Right.

18 Q. Do you have any recollection of a
19 witness by the name of Edgar Santos?

20 A. I don't remember any of these
21 three witnesses' names or who they are or
22 why I even put them on an answer.

23 Q. Is it fair to say that when you
24 filed this answer, they would have had some

1 relevance to your theory of defense?

2 A. Yes.

3 MS. BRADY: Objection.

4 Foundation.

5 BY MR. BRUEGGEN:

6 Q. And, again, sir, you wouldn't just
7 disclose random witnesses just because,
8 right?

9 MS. BRADY: Objection. Form.

10 THE WITNESS: Of course, if I am
11 giving witnesses' names, they must have been
12 relevant at the time. But I have no
13 independent recollection of who they are or
14 what they were going to testify to right
15 now.

16 BY MR. BRUEGGEN:

17 Q. Sir, if I have informed you that
18 Edgar Santos was Mr. Iglesias's friend who
19 he was arrested with and who stood in the
20 first lineup with Mr. Iglesias where he was
21 identified by Mr. Ochoa, does that refresh
22 your recollection as to Mr. Santos'
23 relevance?

24 MS. BRADY: Objection. Assumes

1 facts not in evidence.

2 THE WITNESS: No, it does not.

3 BY MR. BRUEGGEN:

4 Q. And if I told you that Jesus
5 Velasquez was the plaintiff's cellmate at
6 Cook County jail, who plaintiff has
7 testified to was present when he had
8 conversation with Mr. Vicente, does that
9 refresh your recollection as to his
10 relevance?

11 MS. BRADY: Objection. Assumes
12 facts not in evidence.

13 THE WITNESS: No, it does not.

14 BY MR. BRUEGGEN:

15 Q. Again, if Mr. Iglesias had told
16 you that there was someone else present when
17 he had his conversation with Mr. Vicente,
18 that would potentially be a witness you
19 would want to call, right?

20 A. Yes.

21 Q. Again, I'm sure maybe you don't
22 remember, but as you gleaned, Mr. Vicente
23 says that Mr. Iglesias confessed to him and
24 Mr. Iglesias denied that, okay, sir?

1 A. Okay.

2 Q. And so with that, any other
3 potential witnesses to that conversation
4 would be relevant, right?

5 A. Yes.

6 MS. BRADY: Objection. Form to
7 the last question.

8 (Whereupon, DeLeon Deposition
9 Exhibit No. 16 was
10 screen-shared/referenced.)

11 BY MR. BRUEGGEN:

12 Q. Sir, I am going to show you what
13 we will mark as Exhibit 16.

14 And for the record, this is
15 Iglesias 2150 to 2152. I will put it up on
16 the screen.

17 A. Okay.

18 Q. Sir, do you see a document up on
19 your screen?

20 A. Yes.

21 Q. And I will give you a chance to
22 review the first page of that document.

23 A. Okay.

24 Q. Sir, the first page is letterhead

1 from your office that notes you're including
2 supplemental answers to discovery; is that
3 correct?

4 A. Yes.

5 Q. And it was signed by a Chris
6 Siller. Do you see that?

7 A. Yes.

8 Q. Was he one of those associates who
9 worked on cases with you from time to time?

10 A. No. She was a secretary of mine.

11 Q. Gotcha. So looking at page
12 Iglesias 2151, do you see a supplemental
13 answer to discovery?

14 A. Yes.

15 Q. Do you see you disclose now
16 additional witnesses that may be called?

17 A. Right.

18 Q. Let me show you the last page.
19 It's just a continuation, but looking at
20 Iglesias 2151, do you see the name Richard
21 Garvin?

22 A. Yes.

23 Q. Do you know who Richard Garvin is?

24 A. No.

1 Q. Do you know if Richard Garvin was
2 another criminal defense attorney who
3 practiced around the same time you did?

4 A. I don't ring a bell -- his name
5 does not ring a bell. I don't know who he
6 is.

7 Q. And on this list, you also have
8 Donna Makowski disclosed as a witness. Do
9 you see that, sir?

10 A. Yes, I see that.

11 Q. Do you have any recollection of
12 why you would have disclosed Ms. Makowski
13 who was also representing Mr. Iglesias with
14 you as a witness?

15 A. Don't remember.

16 (Whereupon, DeLeon Deposition
17 Exhibit No. 17 was
18 screen-shared/referenced.)

19 BY MR. BRUEGGEN:

20 Q. Sir, the next document that I will
21 make as an exhibit that I am going to share
22 with you, I want you to look at it and see
23 if you can identify the handwriting.

24 For the record, this will be

1 Exhibit 17, and it is Bates stamp Iglesias
2 2153 and 2154.

3 All right, sir, let me put
4 this document up so you can see it.

5 A. Okay.

6 Q. Do you see a document up on your
7 screen?

8 A. Yes.

9 Q. And it's called possible witnesses
10 and lists a bunch of names. Do you see
11 that, sir?

12 A. Yes.

13 Q. Do you recognize the handwriting
14 here?

15 A. Could be mine, but I'm not sure
16 because it's printed.

17 Q. Showing you the second page, it
18 has also some cursive names. Do you
19 recognize that handwriting?

20 A. That handwriting, I don't
21 recognize, but I don't think that's mine.

22 Q. Sir, in dealing with a case where
23 you have a jailhouse informant, would the --
24 strike that.

1 In dealing with a case with a
2 jailhouse informant would the interaction
3 between two -- the witness and your client
4 be important?

5 MS. BRADY: Objection. Form.

6 THE WITNESS: I'm not sure what
7 you are asking.

8 BY MR. BRUEGGEN:

9 Q. Yeah. I realized that when I was
10 thinking about the question. I apologize
11 for that.

12 Would the time or the date of
13 the interaction between your client and the
14 jailhouse informant be important to your
15 defense to determine whether it was even
16 possible?

17 MS. BRADY: Objection. Form.

18 THE WITNESS: Sure.

19 MS. BRADY: And incomplete
20 hypothetical.

21 BY MR. BRUEGGEN:

22 Q. Sir, do you recall there was -- in
23 the case of Mr. Iglesias, there was a
24 question about the date when Mr. Iglesias

1 had his conversation with Mr. Vicente?

2 A. I have no recollection of that.

3 (Whereupon, Deposition

4 Exhibit No. 18 was

5 screen-shared/referenced.)

6 BY MR. BRUEGGEN:

7 Q. Sir, I will show you another
8 exhibit, which is another report of
9 proceedings from Mr. Iglesias's case, dated
10 October 5th of 1994, and we will mark this
11 as Exhibit 18.

12 And for the record, it's
13 Iglesias 2330 to 2335.

14 A. Okay.

15 Q. Do you see a document up on your
16 screen?

17 A. Yes.

18 Q. Do you see it's a report of
19 proceedings in Mr. Iglesias's case dated
20 October 5, 1994?

21 A. Yes.

22 Q. And you see under appearances, it
23 says you were present?

24 A. Yes.

1 Q. I am going to direct you to
2 Iglesias 2333 and ask if you can read lines
3 5 through 16.

4 A. Okay.

5 Q. Read them to yourself, and then I
6 will have some questions.

7 A. Okay.

8 Q. Having had a chance to look at
9 Exhibit 18, does that refresh your
10 recollection that there was an issue about
11 the date that Mr. Vicente had a conversation
12 with your client, Mr. Iglesias?

13 MS. BRADY: Objection. Form.

14 THE WITNESS: It does not refresh
15 my recollection, but I understand what it
16 says.

17 BY MR. BRUEGGEN:

18 Q. And again, if you had told the
19 Court that, it would have been true and
20 accurate at the time, right?

21 A. Yes.

22 Q. And did you see that you had also
23 had a potential witness that you were going
24 to bring in from Taylorville Correctional

1 Center?

2 A. That's what it says, yeah.

3 Q. And do you have any recollection
4 of what that witness was going to testify
5 to?

6 A. No. I have no recollection of
7 this at all.

8 Q. But from the context, it was
9 relevant to the date of Mr. Vicente and
10 Mr. Iglesias's conversation?

11 MS. BRADY: Objection. Foundation
12 and form.

13 THE WITNESS: I assume it was
14 relevant, otherwise I wouldn't bring him in.

15 BY MR. BRUEGGEN:

16 Q. Do you recall filing a motion to
17 bar Mr. Vicente's testimony, who was the
18 jailhouse informant?

19 A. No, I don't recall.

20 (Whereupon, DeLeon Deposition
21 Exhibit No. 19 was
22 screen-shared/referenced.)

23 BY MR. BRUEGGEN:

24 Q. I am going to mark another

1 exhibit. This will be Exhibit 19.

2 And for the record, this is
3 Iglesias 2161 through 2162.

4 Sir, do you see a document up
5 on your screen?

6 A. Yes.

7 Q. Can you tell us what this document
8 is? And let me show you the second page as
9 well.

10 A. Okay. I have read it.

11 Q. Having read that, does that
12 refresh your recollection about moving to
13 bar Mr. Vicente as a witness?

14 A. No, it does not.

15 Q. Do you have any recollection of
16 how the Court ruled on this motion?

17 A. I don't remember filing it. It
18 appears there is a motion to bar, but I have
19 no independent recollection of what happened
20 to the motion.

21 Q. Why would you move to bar the
22 admission of a jailhouse confession?

23 A. Well, it says in the motion why,
24 unreliability, whatever I wrote in there.

1 Q. Sir, was the potential of a
2 jailhouse confession being admitted into
3 evidence against your client, was that
4 concerning to you?

5 A. Yes, of course, because it's --
6 any confession, whether it's to a policeman
7 or to another witness, whether it's a
8 jailhouse witness or not is going to be
9 damaging to his defense.

10 Q. Sir, I think I asked you this, but
11 let me make sure. Do you have any
12 recollection of interviewing Rosendo Ochoa
13 in your defense of Mr. Iglesias?

14 A. No.

15 (Whereupon, DeLeon Deposition
16 Exhibit No. 20 was
17 screen-shared/referenced.)

18 BY MR. BRUEGGEN:

19 Q. I am going to mark Exhibit 20,
20 which for the record, is Iglesias 1145, and
21 I'd like to show that to you, sir. If you
22 take a minute and review this document, I
23 will have some questions for you. Okay? Do
24 you see the document, sir?

1 A. Yes.

2 Q. If you can take a minute and read
3 that. Are you able to read that, or do you
4 need me to make it bigger?

5 A. I can read it.

6 Q. All right.

7 A. Okay. I've read it.

8 Q. Sir, having had a chance to review
9 Exhibit 20, which is Iglesias 1145, does
10 that refresh your recollection about
11 interviewing Mr. Ochoa?

12 A. No, it does not.

13 Q. On Exhibit 20, is this your
14 signature at the bottom?

15 A. Yes.

16 Q. And your signature at the bottom,
17 would that represent that you had prepared a
18 memorandum of interview of Rosendo Ochoa?

19 A. Yes. I just don't remember.

20 Q. Fair enough.

21 A. All right.

22 Q. Do you know why you prepared a
23 memorandum of interview of Rosendo Ochoa?

24 A. Just to document it, I guess, but

1 I don't remember.

2 Q. And, sir, I earlier asked you
3 about when you interviewed witnesses if you
4 took notes or created interviews, and you
5 said you normally just took notes on a
6 yellow legal pad or something of that
7 nature, right?

8 A. Yes. I don't know how to type, so
9 I must have had my secretary type up what I
10 wrote.

11 Q. Okay.

12 A. So I could tender a good copy to
13 the State, I think.

14 Q. And why would you need to
15 tender --

16 (Reporter clarification.)

17 A. My handwriting is not that good,
18 so I would have wanted it to be legible.

19 Q. Why would you need to tender a
20 copy of this to the estate -- to the State,
21 sorry?

22 A. Well, because any time they take a
23 statement from somebody, they have to tender
24 it by discovery rules. If I take a

1 statement, I have to tender it to them by
2 discovery rules.

3 Q. So would your statement of
4 Mr. Vicente have been tendered to the State?

5 MS. BRADY: Objection. Form.

6 THE WITNESS: I don't remember
7 writing down a statement from Vicente.

8 BY MR. BRUEGGEN:

9 Q. So maybe the -- maybe it's a poor
10 question, but is there a difference between
11 interviewing someone and taking notes and,
12 quote/unquote, taking a statement from that
13 person?

14 A. No, it's the same thing.

15 Q. So if you interviewed or -- strike
16 that.

17 As we discussed earlier by, if
18 you will, yourself or somebody working with
19 you. Do you recall that?

20 A. Right.

21 Q. And so the notes of that interview
22 would have been tendered to the State?

23 MS. BRADY: Objection.

24 Foundation.

1 THE WITNESS: I'm not sure what
2 your question is.

3 BY MR. BRUEGGEN:

4 Q. Again, I am just trying to
5 understand that if you interview a witness
6 and you take notes, do you have to turn
7 those notes over to the State as part of
8 discovery?

9 A. We are supposed to, yeah.

10 Q. So if notes were taken when
11 Mr. Vicente was interviewed by yourself or
12 somebody else working on Mr. Iglesias's
13 case, those notes should have been turned
14 over to the State, right?

15 A. I believe so, yes. But again, I
16 have no recollection of interviewing
17 Mr. Vicente.

18 Q. When you interviewed Mr. Ochoa,
19 were you limited in any questions you could
20 ask him by the State's Attorney being
21 present?

22 A. I don't recall the interview of
23 Mr. Ochoa, so I can't answer that.

24 Q. So let me ask a general question.

1 When you are interviewing a witness for the
2 State, can the State's Attorney limit what
3 you can ask them about and what you cannot
4 ask about?

5 MR. BRUEGGEN: Objection. Form.

6 THE WITNESS: Again, I am not sure
7 what you are asking.

8 BY MR. BRUEGGEN:

9 Q. I am asking if it's a State
10 witness that you are interviewing, can the
11 State's Attorney say, you can interview him,
12 but you can't ask him about this topic? Is
13 that allowed?

14 A. I don't know. It depends what
15 topic it is.

16 Q. Sir, I am pretty sure I know the
17 answer, but do you have any recollection of
18 sending an investigator to interview Hugo
19 Rodriguez in the Iglesias case?

20 A. I don't remember.

21 (Whereupon, DeLeon Deposition
22 Exhibit No. 21 was
23 screen-shared/referenced.)
24

1 BY MR. BRUEGGEN:

2 Q. Let me show you what we will mark
3 as Exhibit 21.

4 For the record, this is
5 Iglesias 897 through 899.

6 A. Okay.

7 Q. Do you see a document up on your
8 screen, sir?

9 A. Yes.

10 Q. And I am going to give you the
11 opportunity if you want, if you'd like to
12 read this. It's a three-page document with
13 what appear to be notes on the first page,
14 and then some more notes, and looks like a
15 question-answer session. Do you see that,
16 sir?

17 A. Yes.

18 Q. Would you like to review this?

19 A. Yeah, I can take a quick look at
20 it.

21 Q. Okay. Yes, thank you.

22 A. Okay, I finished this page.

23 Okay, I finished this page.

24 Okay, finished.

1 Q. All right, sir. This is
2 consistent with what we talked about
3 earlier, depending on the case, you may hire
4 an investigator to go interview witnesses,
5 right?

6 A. Right.

7 Q. In this case, it appears that you
8 hired an investigator from Blue Night
9 Detective Agency?

10 MS. BRADY: Objection.
11 Foundation.

12 THE WITNESS: Again, I have no
13 independent recollection that I hired Blue
14 Night Detective Agency, but it appears they
15 went and interviewed the witnesses, so I
16 guess I must have. I just don't remember
17 it.

18 BY MR. BRUEGGEN:

19 Q. Fair enough. Do you work a lot
20 with Blue Night Detective Agency? Do you
21 remember that agency independently?

22 A. I don't independently remember
23 that agency. I must have at that time used
24 them. I don't see a name of an investigator

1 on the report. That might refresh my
2 recollection, but I don't see his name
3 anywhere.

4 Q. I do not either.

5 When you use investigators to
6 go out and interview witnesses, would you
7 give the investigators the questions you
8 would want them to ask the witness?

9 A. Sure. We'd discuss -- I'd give
10 them reports. We'd discuss it, and a lot of
11 times, I would even write out the questions.
12 So it's possible I wrote out those questions
13 that they asked. Because I see they typed
14 out specific questions and got answers.
15 Those on page 2, whatever it is. But again,
16 I have no recollection of this.

17 Q. One of the benefits of you
18 providing the questions for the investigator
19 to ask is that would get you the information
20 that you are specifically looking for,
21 right?

22 A. Right. Because even though they
23 are trained investigators, a lot of them are
24 ex-policemen. Sometimes they don't ask the

1 right questions.

2 Q. As you sit here today, do you
3 recall calling Mr. Iglesias as a witness in
4 his own defense?

5 A. I don't remember.

6 Q. Prior to putting on a client in
7 his own defense, would you have a
8 conversation with the client about his
9 constitutional rights to testify?

10 A. Sure.

11 Q. I wanted to talk to you about
12 alibis. Are you familiar with the idea of a
13 general alibi versus a specific alibi? And
14 let me explain it, a general alibi is I work
15 every day from 9:00 to 5:00, but I don't
16 recall what I did on that specific day, but
17 I normally work 9:00 to 5:00 versus a
18 specific alibi, on that specific date, I was
19 at work and I recall that.

20 A. Okay.

21 MS. BRADY: Objection. Form.

22 BY MR. BRUEGGEN:

23 Q. Are you familiar with that or --

24 A. I understand that, what you are

1 saying.

2 Q. And earlier you looked at what the
3 police attributed to Mr. Iglesias about his
4 alibi?

5 A. Right.

6 Q. And he couldn't remember
7 specifically what he did on the date of the
8 shooting, but told them that he was
9 generally in school until a certain time.
10 Do you recall that?

11 A. I have no recollection of speaking
12 to Mr. Iglesias about an alibi. I probably
13 did, but I don't remember it.

14 Q. And if Mr. Iglesias had told you
15 that his normal -- he doesn't remember
16 specifically what he did on a date, but
17 normally he would go to school and work, and
18 then return home and take care of his child
19 so his girlfriend could do other things,
20 would you have wanted to call his girlfriend
21 to testify to that general alibi?

22 MS. BRADY: Objection.
23 Foundation. Form. Incomplete hypothetical.

24 THE WITNESS: I don't know. I

1 might. I'm not sure.

2 If it's that general an alibi,
3 I'm not sure that I would think it was that
4 good for his defense. Certainly, it's
5 better to have a specific alibi.

6 BY MR. BRUEGGEN:

7 Q. And that's an assessment you would
8 have made at the time of trial; is that
9 fair?

10 A. Pretty much, just like whether or
11 not the defendant testifies, you asked me
12 earlier. Whether a defendant testifies,
13 just to let you know, in general, probably
14 80 percent of the time, you advise clients
15 not to testify because they have
16 backgrounds. That's usually the reason a
17 client doesn't testify.

18 Because even though you may
19 believe in his defense, and you may believe
20 what he is telling you, if he takes the
21 stand and testifies that he has three prior
22 convictions for whatever, having a gun,
23 drugs, whatever it is, the trier of facts
24 certainly is going to look at his background

1 and sometimes judge him just by his
2 background no matter what he says. So
3 sometimes a defendant hurts himself by
4 testifying, even if he is telling the truth
5 100 percent, and you believe in it.

6 So a lot of times you will
7 advise the defendant I wouldn't testify if I
8 was you because you are just going to be
9 destroyed on the stand with your background
10 and the judge or jury is going to convict
11 you because of your background.

12 So all that would have gone
13 into whether or not Iglesias decided to
14 testify or not. But in the long run, it's
15 his decision.

16 Sorry for taking off of the
17 question. I don't remember what it was now.

18 THE REPORTER: I think Dave is
19 frozen.

20 THE WITNESS: Oh, is that why?
21 Yeah, you're right. I must have bored him
22 to death.

23 Dave, are you there? We
24 can't hear you.

1 THE REPORTER: Rachel, you want to
2 take us off until he comes back on.

3 MS. BRADY: I think we lost him.
4 Let's go off the record.

5 THE VIDEOGRAPHER: We are off the
6 record at 12:46 at the end of Media
7 Unit 2.

8 (Whereupon, a break was taken
9 at 12:46 p.m. to 12:54 p.m.)

10 THE VIDEOGRAPHER: We are back on
11 the video record at 12:54 at the beginning
12 of Media Unit 3.

13 BY MR. BRUEGGEN:

14 Q. Mr. DeLeon, again, I'm sorry about
15 losing connectivity there.

16 A. No problem.

17 Q. This is, you know, why Zoom deps
18 are not always the easiest, but I appreciate
19 your patience so far.

20 A. Well, it sounds like there is
21 light at the end of the tunnel. We are
22 almost there, so I am ready.

23 Q. Yes. And so moving on, obviously,
24 you know that Mr. Iglesias was convicted

1 after the trial, right?

2 A. Correct.

3 Q. And after post-trial motions and
4 motion for a new trial, did you have any
5 other involvement in Mr. Iglesias's case and
6 the appeal?

7 A. Not that I remember.

8 Q. Do you remember that in his
9 appeal, he was represented by Sidley &
10 Austin, they had been appointed?

11 A. I don't remember.

12 MS. BRADY: Objection.
13 Foundation.

14 THE WITNESS: I don't remember.

15 BY MR. BRUEGGEN:

16 Q. Do you know the outcome of his
17 appeal?

18 A. He won something because,
19 obviously, we are here, and he got out. I
20 think he got out because I saw him out
21 actually, very briefly, at 26th Street once.

22 Q. When did you see him?

23 A. That's a good question. I'm
24 thinking it might have been three, four

1 years ago, and I am just wild guessing. I
2 happened to -- it was definitely before the
3 pandemic. I happened to be walking through
4 26th Street to do my normal work, and I saw
5 a large group of people by the Chief Judge,
6 Room 101 outside in the hall, and a young
7 man walked up to me and said, Mr. DeLeon.
8 He might have said John. I don't know,
9 because most of my clients just called me by
10 my first name. Do you remember me? And I
11 said, no, I'm sorry, I don't.

12 So then he introduced himself
13 who he was and the name, you know, jogged my
14 memory, and I looked at him, and I kind of
15 remembered his face. And he told me he won
16 some sort of motion, and he was out, and
17 that's -- that was basically the
18 conversation.

19 Q. Were you aware that
20 Mr. Iglesias -- strike that.

21 Were you aware that
22 Mr. Iglesias filed post-conviction
23 petitions?

24 MS. BRADY: Objection. Foundation

1 or form as to time frame, whether he is
2 aware now or at the time.

3 THE WITNESS: I'm aware now.

4 BY MR. BRUEGGEN:

5 Q. Sorry?

6 A. I'm aware now, but I didn't know
7 anything about it at the time.

8 Q. Were you ever alerted to one of
9 Mr. Iglesias's post-conviction petition
10 arguments that you had failed to move to
11 quash his arrest?

12 A. No. Don't remember that either.

13 Q. We talked about that before, that
14 if there was a basis to move to quash his
15 arrest, that's a motion that you would have
16 filed, right?

17 MS. BRADY: Objection. Asked and
18 answered.

19 THE WITNESS: If I thought it was
20 appropriate, I would have filed it. If I
21 didn't file it, it's because I didn't think
22 it was appropriate. And I respect
23 Mr. Iglesias and any client who files any
24 kind of motion. If the trial is lost, they

1 have to do everything they can to try and
2 get a new trial, including call me
3 incompetent. I'm used to that. All lawyers
4 are. It's part of the practice.

5 BY MR. BRUEGGEN:

6 Q. I understand. Thank you.

7 The next thing I wanted to ask
8 you about was the 2005 time frame, do you
9 have a recollection of talking to
10 Ms. Makowski about Mr. Iglesias?

11 A. I have no recollection of it, no.

12 Q. Do you recall that Ms. Makowski
13 sent letters to Mr. Iglesias in the 2005
14 time frame?

15 MS. BRADY: Objection.
16 Foundation.

17 THE WITNESS: I don't recall it.

18 BY MR. BRUEGGEN:

19 Q. Does the name Gabriel Oberfield
20 ring any bells?

21 A. Not at all.

22 Q. He was a student at the Medill
23 School of Journalism.

24 A. Doesn't ring a bell. I know

1 Medill School of Journalism, but it doesn't
2 ring a bell.

3 MR. BRUEGGEN: And, Rachel, can
4 you throw up those two letters? Were you
5 able to pull them out? Thank you for
6 helping me.

7 MS. BRADY: Sure.

8 (Whereupon, DeLeon Deposition
9 Exhibit No. 22 was
10 screen-shared/referenced.)

11 BY MR. BRUEGGEN:

12 Q. Mr. DeLeon, we are going to mark
13 my last exhibit, which will be Number 22.

14 And for the record, it's
15 Iglesias 1440 to 1441.

16 A. Okay.

17 Q. Sir, are you able to see a
18 document up on the screen?

19 A. Yes.

20 Q. And this exhibit is a two-page
21 exhibit. There's two documents. If you can
22 take a minute and just read the first
23 document that's up there. That's
24 Iglesias --

1 A. Yes, I see it.

2 Q. -- 1440?

3 A. Right.

4 I've read it.

5 Q. All right, sir.

6 And, Rachel, can you go to the
7 second page, please. Thank you.

8 If you'd take a moment and
9 read the second page of Exhibit 22.

10 A. Okay.

11 Q. Sir, having reviewed those two
12 letters from Ms. Makowski, does that refresh
13 your recollection about talking to
14 Ms. Makowski in 2005 about Mr. Iglesias?

15 A. Not really.

16 Q. Can you tell me how it refreshes
17 you?

18 A. Well, she -- when I had that
19 recent conversation with her, she mentioned
20 that she had written him a couple of
21 letters, but I didn't know the content of
22 the letters really other than it was trying
23 to help him with his post-conviction or
24 something like that.

1 MR. BRUEGGEN: Okay. And, Rachel,
2 if you can go to the first page again. I
3 apologize, but thank you for your help.

4 MS. BRADY: Sure.

5 BY MR. BRUEGGEN:

6 Q. Sir, in this letter, it states the
7 last sentence of the letter, "John needs to
8 know if you have anyone working on your
9 post-conviction."

10 Do you see that?

11 A. Yeah.

12 Q. Do you recall whether you were
13 interested in working on a post-conviction
14 petition for Mr. Iglesias?

15 A. I can tell you right now I was not
16 interested in working on a post-conviction
17 for anyone. I am not a post-conviction
18 lawyer, and I am not sure why Donna wrote
19 that in there. But we may have had a
20 conversation that I don't recall about
21 Mr. Iglesias.

22 Because I see there was
23 something about -- in the other letter about
24 a sex offender because I do remember

1 something about a law -- a sex offender
2 registration law affecting any person who
3 committed a crime against a juvenile, and
4 for some reason, he was thrown into that
5 category and had received notice that he was
6 going to have to report after he was
7 released, I guess, or something like that.

8 In that part of the
9 conversation recently, Donna reminded me
10 that he was considered a person that has to
11 register because of the age of the victim in
12 his case. That part, I remember.

13 But I don't know why she would
14 put John wants to know because I would -- I
15 did not take on his post-conviction. And if
16 she brought it up to me, I would have told
17 her to contact the Innocence Project at
18 Northwestern or one of the other groups that
19 specializes in this kind of stuff because I
20 do not do post-convictions.

21 Q. Okay.

22 MR. BRUEGGEN: And, Rachel, if you
23 could go to the second page again.

24

1 BY MR. BRUEGGEN:

2 Q. Sir, the first line of this, which
3 is the second page of Exhibit 22, it says,
4 "John and I were contacted by a reporter
5 named Gabriel Oberfield from Medill News."

6 Do you see that?

7 A. Yes. And I have no independent
8 recollection of being contacted by Gabriel
9 Oberfield. It could have happened. I just
10 don't remember.

11 Q. And, sir, if you had been
12 contacted by a person from the media saying
13 that a witness in one of your cases has
14 since come out and said he lied or misstated
15 the truth, how would you have responded?

16 MS. BRADY: Objection. Foundation
17 and form. Also I think assumes facts not in
18 evidence and misstates the record.

19 THE WITNESS: Well, it appears
20 that the way we responded was Donna sent him
21 notice of it.

22 BY MR. BRUEGGEN:

23 Q. And, sir, before Ms. Makowski
24 would have sent him notice, would you have

1 expected her to contact you to talk about
2 what to do?

3 MS. BRADY: Objection.
4 Foundation.

5 THE WITNESS: I know she would
6 have contacted me because we are still
7 friends. And even though we're not in the
8 same office for a few years, she would -- we
9 speak every once in a while. I send her a
10 case once in a while. She sends me a case
11 once in a while.

12 And certainly if something
13 came up about an old case, just like when
14 this came up, I called her and had a
15 conversation with her, or maybe -- again,
16 maybe she called me, but we had a
17 conversation recently about me being
18 subpoenaed, and me telling her, you might be
19 subpoenaed. You were co-counsel on that
20 case, so we speak once in a while.

21 BY MR. BRUEGGEN:

22 Q. Sir, going back to the letter, the
23 last line of the first paragraph says, "He
24 sent your file and I am forwarding it to

1 you."

2 Do you see that?

3 A. Is that in the first paragraph.

4 Q. Yes, the first paragraph, the last
5 line of -- this is the August 24, 2005,
6 letter.

7 A. I see what it says, but I have no
8 recollection of being involved in sending a
9 file.

10 Q. I appreciate that, but from the
11 context of the letter, it appears that
12 Gabriel Oberfield had sent the -- had sent
13 Mr. Iglesias's file?

14 A. Oh, okay.

15 Q. And Ms. Makowski was forwarding it
16 to Mr. Iglesias?

17 A. Okay. He sent the file to
18 Ms. Makowski, is that what it says?

19 Q. Just from the context, it says,
20 "He sent your file and I am forwarding it to
21 you."

22 A. Oh, okay. Right, I guess.

23 Q. My question to you is, do you know
24 how Mr. Oberfield would have gotten a copy

1 of Mr. Iglesias's file?

2 MS. BRADY: Objection. Foundation
3 and form.

4 THE WITNESS: I don't know.

5 BY MR. BRUEGGEN:

6 Q. Is it fair to say that you
7 wouldn't have provided Mr. Oberfield a copy
8 of Mr. Iglesias's file unless you had
9 Mr. Iglesias's consent?

10 A. Of course.

11 MS. BRADY: Objection. Foundation
12 to the extent it's unclear from the photo
13 what file anyone is talking about.

14 THE WITNESS: It is a little
15 vague. I thought they were saying that I
16 sent the file. He has sent your file.

17 BY MR. BRUEGGEN:

18 Q. Again, the way I read it is the
19 "he" is referring to Gabe Oberfield.

20 But regardless, is it fair to
21 say that you would not have given
22 Mr. Iglesias's file to anyone without
23 Mr. Iglesias's permission or a Court order?
24 Is that fair?

1 A. I'm sure I wouldn't do anything
2 inconsistent with Mr. Iglesias's wishes.

3 But again, this letter isn't
4 from me. It's from Donna, and I know she
5 put my name on it, but I don't remember it
6 at all.

7 Q. It's not a problem.

8 MR. BRUEGGEN: Rachel, can you
9 take down the exhibits, please.

10 MS. BRADY: Sure.

11 MR. BRUEGGEN: Thank you.

12 BY MR. BRUEGGEN:

13 Q. Mr. DeLeon, do you recall getting
14 a call from Mr. Iglesias in 2005, so it
15 would have been after August after these
16 letters were sent?

17 A. No, I have no recollection of
18 that.

19 Q. Sir, in 2005, were you familiar
20 with the We Demand Justice Group?

21 A. It doesn't ring a bell, but there
22 were so many groups like that out there. I
23 just don't remember that particular name.

24 Q. In 2005, were you aware of any

1 allegations against Detective Guevara?

2 MS. BRADY: Objection.

3 Foundation.

4 THE WITNESS: I can't say the
5 year, but allegations against Guevara,
6 official allegations, I'd seen several of
7 them on television. I just don't remember
8 the exact years.

9 But I will tell you this,
10 that during the time I practiced in the '80s
11 and '90s, where Mr. Guevara was involved in
12 cases that I defended, drug cases, gun
13 cases, probably even some murder cases,
14 Police Officer Guevara had a reputation.
15 Unfortunately, that reputation on the street
16 among lawyers and defendants was not very
17 good before it exploded into a media frenzy
18 that he was doing things inconsistent with
19 the ends of justice.

20 He just had a reputation for
21 being a very tough cop that would do
22 whatever it took to make an arrest and get a
23 conviction. That's what I can tell you,
24 unfortunately.

1 I am sorry to say that, but
2 that's just the way it was. You know, there
3 were a lot of police officers that had bad
4 reputations. And when you are a defense
5 lawyer in the system, you hear it. You
6 know, you hear it by way of rumor from other
7 people.

8 BY MR. BRUEGGEN:

9 Q. Sir, did you -- were you aware of
10 Guevara's reputation, as you just described,
11 back when you were representing
12 Mr. Iglesias?

13 A. His reputation wasn't as notorious
14 then, but I don't know when he got
15 transferred to work on murder cases, but I
16 think that's when his reputation started
17 getting more notorious to be the kind of
18 person to bend the rules.

19 Q. Sir, with that knowledge --

20 A. I can't tell you the years,
21 though. I can't tell you the years exactly.

22 Q. Sir, with that knowledge, did you
23 attempt to use that in helping defend
24 clients where Detective Guevara was involved

1 in the case?

2 A. Well, I didn't -- I didn't have
3 any impeachable evidence, you know, that I
4 could use to impeach him, if that's what you
5 are asking me, when defending Iglesias or if
6 I was representing a defendant on a drug
7 case or something. It was just a general
8 bad reputation. That's all I can tell you.

9 Q. So that reputation was based on
10 rumors?

11 A. Yes.

12 Q. And scuttlebutt?

13 A. Yes.

14 Q. Sir, were you familiar with the
15 reputation of Ernest Halvorsen or any rumors
16 against him?

17 A. Halvorsen, I remember that
18 detective's name, I think it involved more
19 with Area 1, if I am not mistaken. I am
20 depending on a bad memory, okay, because --

21 Q. No, I understand that, sir.

22 A. I really have, unfortunately, lost
23 some memory as a result of my stroke, and I
24 realize that. But I try to reach back and

1 remembered Halvorsen is a name that rings a
2 bell. He was -- I think he was a detective
3 in murder cases, and he had a bad reputation
4 also.

5 Q. And can you tell me what that bad
6 reputation was?

7 A. That again, he would bend the
8 rules to get a conviction.

9 Q. Is that similarly based on rumor
10 and supposition?

11 A. Sure, rumors.

12 Q. Sir, how about the name Gawrys,
13 Steve Gawrys, does that name ring a bell at
14 all?

15 A. Doesn't ring a bell.

16 Q. How about the name Tony Riccio,
17 does that name ring a bell?

18 A. No.

19 Q. The name Bob Biebel, does that
20 name ring a bell?

21 A. No.

22 Q. Sir, other than the one
23 conversation you had with Mr. Iglesias that
24 you told us about at 26th and California,

1 have you had any conversations with
2 Mr. Iglesias since the time you represented
3 him?

4 A. No.

5 MR. BRUEGGEN: Sir, those are all
6 the questions I have. Thank you very much
7 for your patience and answering the
8 questions.

9 THE WITNESS: Thank you. I can
10 sign off then?

11 MR. BRUEGGEN: No, no. I'm sorry,
12 there's other attorneys that may have
13 questions as well.

14 THE WITNESS: Okay.

15 MR. BRUEGGEN: I am not that
16 important, sir.

17 EXAMINATION

18 BY MR. RAHE:

19 Q. Hi, Mr. DeLeon. My name is Austin
20 Rahe. I represent the Defendant City of
21 Chicago in this case.

22 A. Sure.

23 Q. I just have a few questions for
24 you. Earlier you had mentioned that you

1 don't -- you didn't know or you don't know
2 the different gangs that fall under the
3 umbrella of People or Folks.

4 Do you remember that
5 conversation?

6 A. Yes.

7 Q. Is that based on your knowledge
8 today, or did you ever have knowledge of the
9 gangs that fell under each of those
10 umbrellas?

11 A. I would purposely ignore those
12 classifications. I know there is some
13 lawyers that could tell you who was under
14 either of those umbrellas. I didn't want to
15 know it. I didn't want to learn it. So I
16 just kept it out of my mind.

17 Q. Okay.

18 A. So I don't have -- you could throw
19 a name at me now, and I will tell you I
20 don't know whether they are People or Folks.

21 Q. Okay. And you said you
22 represented gang members that could have
23 been from either People or Folks?

24 A. Yes. Yes, I'm sure I did.

1 Q. When you issued a subpoena in a
2 criminal case, you know, down at the bottom
3 left-hand corner, I think back then, it had
4 a little space for you to fill in your name
5 and your --

6 A. Uh-huh.

7 Q. -- and address, right?

8 A. Sure.

9 Q. Did you always write your name in
10 there, or did you have some sort of stamp
11 that you would put on there?

12 A. You mean sign it?

13 Q. No, not necessarily sign it. But
14 so each time you file a pleading, you know,
15 you put whatever, respectfully submitted,
16 by, you know, John DeLeon, and then under
17 it, you might have your name, firm name,
18 address and phone number. You know what I
19 am talking about?

20 A. Right.

21 Q. So on the bottom of a subpoena
22 back then, when you would issue it in a
23 criminal case, it had a little preselected,
24 like preprinted like block there where you

1 could write your name next to it. Do you
2 know what I am talking about?

3 A. Okay. I'm not sure. I mean, I
4 would sign it if it required a signature, or
5 if it didn't require a signature or my
6 secretary would type our name and address on
7 there. Whatever it needed, that's what we
8 would put on there. I just don't remember.

9 Q. Do you ever remember your law firm
10 having -- or you or your firm having a stamp
11 that had your name, address, and telephone
12 number on it?

13 A. We might have. I'm pretty sure we
14 probably did because I think I used to stamp
15 all my files, too, with that same stamp.

16 Q. Thank you. Do you recall what
17 years you did that? Have you done it your
18 whole career? No?

19 A. I can't remember.

20 Q. Did you ever represent an
21 individual named Jacques Rivera?

22 A. What was the name?

23 Q. Jacques Rivera.

24 A. How do you spell his first name?

1 Q. J-a-c-q-u-e-s, I believe.

2 A. I don't remember.

3 Q. Okay. Do you remember -- sorry,
4 what was that?

5 A. I don't remember the name. I
6 mean, it's possible. Rivera, I represented
7 probably a hundred Riveras.

8 Q. Did you ever -- well, have you
9 ever had any former clients that were
10 criminal defendants in murder cases be or
11 have their convictions reversed other than
12 Mr. Iglesias?

13 A. I think I have, but I don't
14 remember any of them.

15 Q. You don't remember any of the
16 names?

17 A. No.

18 Q. Have you ever issued a subpoena in
19 a case with your name and information on it
20 where you did not represent the criminal
21 defendant?

22 MS. BRADY: Objection. Form.

23 THE WITNESS: I don't think so.

24 Why would I issue a subpoena for a person

1 that I don't represent?

2 BY MR. RAHE:

3 Q. You don't remember, or you don't
4 think you have ever done that?

5 A. I don't think I have ever done
6 that. Why would I do that?

7 MR. RAHE: That might be all the
8 questions I have, but I would like to -- if
9 we could just take two minutes here --
10 that's literally all I need -- to see if I
11 have anything else.

12 THE WITNESS: Okay.

13 MR. RAHE: Is that okay? Thanks.

14 THE VIDEOGRAPHER: Do you want to
15 go off the record?

16 MR. RAHE: Yes, if we can go off
17 the record.

18 THE VIDEOGRAPHER: We are off the
19 record at 1:21 p.m.

20 (Whereupon, a break was had at
21 1:21 p.m. to 1:24 p.m.)

22 THE VIDEOGRAPHER: We are back on
23 the video record at 1:24 p.m.

24

1 BY MR. RAHE:

2 Q. Mr. DeLeon, you said you worked
3 with -- you have worked with some gang
4 intervention or prevention programs in the
5 past?

6 A. Right.

7 Q. Did you ever work in the same gang
8 intervention program as Mr. Iglesias did?

9 MS. BRADY: Objection.
10 Foundation.

11 THE WITNESS: I'm not sure. I'm
12 not sure. I don't remember.

13 I do remember now the name of
14 the organization I worked with with the
15 pastor, Gordon McLean. It was called Youth
16 for Christ. We did a lot together. I don't
17 know if that was the one that Geraldo
18 Iglesias worked in or not.

19 BY MR. RAHE:

20 Q. Was that associated with a church
21 or something?

22 A. Yes. It's a born again Christian
23 church that was sponsored by -- funded by --
24 gosh, he was the most famous pastor in

1 America. He passed away. Billy Graham,
2 Billy Graham's organization.

3 Q. Where was that church located?

4 A. Well, it's not a building. Billy
5 Graham's church is basically Christian
6 churches everywhere. Okay? It could be in
7 somebody's house that get together in a
8 group. I can't give you an address, in
9 other words.

10 Q. Gotcha.

11 A. Billy Graham's original offices
12 are in California. That's all I know.

13 Q. Did you ever work with a gang
14 intervention program through the YMCA?

15 A. Yes, I did.

16 Q. Tell me a little bit about that
17 program. What was it called, and where was
18 the YMCA located?

19 A. The original YMCA I worked with
20 was on Ashland and Monroe, I believe, and it
21 was -- it's -- it's no longer a YMCA. I
22 think that's the -- that's now the federal
23 halfway house for federal court. It was
24 Duncan YMCA, and the director's last name I

1 think was Hector Acosta, but I can't
2 remember for sure if that was the name.

3 Q. Do you remember the years that you
4 worked with that YMCA?

5 A. That was before I was a lawyer,
6 but I don't remember the years.

7 Q. Did you ever work with a program
8 called CeaseFire?

9 A. I've heard of CeaseFire. I spoke
10 to, during that time period, with some of
11 the representatives, but I didn't work
12 officially with them. You know what I mean?
13 I think that was a City program, if I am not
14 mistaken, funded by the City.

15 Q. Did you ever obtain clients from
16 your work in these gang intervention
17 programs?

18 MS. BRADY: Objection. Foundation
19 and form.

20 THE WITNESS: Not that I can
21 recall.

22 MR. RAHE: All right. Those are
23 all the questions I have for you. I will
24 turn you over to either Ms. McGrath or

1 Ms. Brady. Thank you.

2 THE WITNESS: Thank you.

3 MS. McGRATH: I don't have
4 anything right now.

5 EXAMINATION

6 BY MS. BRADY:

7 Q. Mr. DeLeon, I have a few questions
8 for you. I am Rachel Brady. I represent
9 Gerald Iglesias in this civil litigation.

10 A. Okay.

11 Q. I am going to follow up on a
12 couple of spots that Dave asked you about,
13 so it might be a little disjointed, so just
14 bear with me here.

15 A. Okay.

16 Q. Did you have a typical practice in
17 the mid-'90s for deciding which witnesses to
18 disclose as people you might call at trial?

19 A. I'm not sure I understand your
20 question.

21 Q. Sure. How did you decide which
22 witnesses to include on your -- the
23 discovery responses where you listed the
24 people that you might call at trial?

1 A. Well, we would always list
2 everybody and anybody who may be called.
3 There wasn't a list that was for sure of
4 people you were going to call because you
5 have to anticipate things. Situations
6 change in the middle of trial sometimes
7 even, and so you have to -- since you have
8 to list your witnesses, basically you listed
9 everybody because you never knew who might
10 become relevant.

11 In the middle of trial, some
12 witness might say, oh well, this is what
13 happened, and I spoke to Jose Gomez about
14 this. Wait a minute. Jose Gomez? And then
15 you remember that name was on the police
16 list that you thought was nobody and didn't
17 say anything, didn't see anything.

18 So if you don't list them, you
19 don't get to call them, so we listed
20 everybody. That was basically our practice.

21 Q. And did you always call everyone
22 you disclosed?

23 A. No. That's what I am saying.
24 Sometimes you didn't.

1 Q. Sure.

2 A. In fact, usually you didn't.

3 Q. And would I be correct in
4 interpreting that there is any number of
5 reasons why you wouldn't call a witness?

6 A. Sure. I couldn't name them all
7 there's so many reasons.

8 Q. And you have no recollection of
9 disclosing any particular witness in this
10 case, right?

11 A. No, I don't know. The answers to
12 discovery or the ones that were shown to me,
13 no independent recollection of that stuff.

14 Q. One of the names on those
15 discovery responses that you looked at
16 earlier was Jesus Velasquez, and I think I
17 know the answer to these questions, but I
18 have to ask them.

19 A. Sure. I understand.

20 Q. Do you have any recollection of
21 why you didn't call Mr. Velasquez at trial?

22 A. I can't remember who he is, how he
23 relates to the case, or why I did or didn't
24 call him, no.

1 Q. Does the fact that you didn't call
2 him at trial allow you to draw any
3 conclusions about what his testimony would
4 have been?

5 A. No.

6 Q. You said that you relied on police
7 reports to come up with an order of
8 importance for witnesses that you would try
9 to talk to. Am I understanding that right?

10 A. Yes.

11 MR. BRUEGGEN: Objection to the
12 extent it misstates his prior testimony, but
13 go ahead.

14 BY MS. BRADY:

15 Q. Were you always successful in
16 locating and interviewing every witness you
17 wanted to?

18 A. No.

19 Q. What are some of the reasons that
20 you wouldn't talk to a witness before trial?

21 A. Because a lot of witnesses would
22 refuse to talk to us, especially policemen
23 and State's witnesses. If the State had
24 control of their witnesses, they would

1 basically tell their witnesses don't talk to
2 the defense lawyer, don't talk to anybody
3 except the State's Attorney investigator. I
4 know that's what they would do. Because
5 witnesses actually told me, I can't talk to
6 you, the State's Attorney told me not to
7 talk to you.

8 Even if I said to them, look,
9 we have a right to interview you. Don't you
10 think it's fair that you tell me what I need
11 to know to properly represent my client?
12 That wouldn't convince people. They still
13 would listen to the State's Attorney's, so
14 that's the answer I can give you.

15 Q. Would it be accurate to say that
16 you tried harder to talk to witnesses who
17 seemed more important to you based on the
18 police reports that you had access to?

19 MR. BRUEGGEN: Objection. Form.

20 THE WITNESS: Sure. If the
21 witness was important, we'd try harder to
22 interview them.

23 BY MS. BRADY:

24 Q. And if there was a witness who the

1 police report said they didn't see anything,
2 maybe you wouldn't try as hard to talk to
3 that witness; is that fair?

4 A. Sometimes we wouldn't get to them,
5 and it wouldn't matter that we didn't
6 because the police report took them out of
7 it anyways.

8 You can imagine if a witness
9 tells a detective, I didn't see anything,
10 that's it, you know, not even so many words.
11 And then I go talk to them, then all of a
12 sudden, he's telling me everything that he
13 saw. He's going to get impeached if I put
14 him on the stand. And now he is saying,
15 well, I saw the whole thing, that's not him.

16 Well, don't you think the
17 State's Attorney is going to get up and say,
18 well, wait a minute, Detective Guevara
19 talked to you, and you told Detective
20 Guevara you didn't see anything, that you
21 were looking the other way. The witness is
22 worthless. You see what I am mean?

23 Q. Yes.

24 A. That's why a lot of times you

1 don't bother to call the witness who's
2 already been interviewed by the detectives
3 and says I saw nothing.

4 Q. You were also shown a formal typed
5 memo documenting an interview that you did
6 with the prosecutor and a witness named
7 Rosendo Ochoa?

8 A. Right. And I don't remember that
9 at all.

10 Q. So I want to -- I'm sorry, go
11 ahead.

12 A. I saw that.

13 Q. And I want to ask about your
14 practice for making formal typed memos about
15 witness interviews, as opposed to just
16 taking handwritten notes.

17 Well, I guess backing up, did
18 you have a practice for deciding whether or
19 not you were going to create a formalized
20 type memo of a witness interview versus just
21 taking notes or not taking notes at all?

22 A. I didn't have a set practice.
23 Sometimes we would just take notes,
24 handwritten. Sometimes I would give those

1 notes to the secretary to type them up
2 because my handwriting might have been
3 pretty bad in the memo, and sometimes we
4 wouldn't. You know, there was no set
5 practice.

6 Q. When you say sometimes you
7 wouldn't, what do you mean?

8 A. Well, sometimes I would just stick
9 the handwritten notes in my file, and that's
10 it.

11 Q. Were there times when you did not
12 take notes at all during a witness
13 interview?

14 A. If I was interviewing a witness,
15 and he wasn't -- and if he said, for
16 example, I didn't see anything, I might not
17 take any notes on that.

18 Q. And you said that you would turn
19 over the notes of your interviews to the
20 State. Do you remember saying that?

21 A. If it was a formalized memo, I
22 would give it to the State. And usually if
23 the person gave me a formalized statement,
24 cooperative, and I wrote it out, and then I

1 had my secretary type it up, then, yes, I
2 would give a copy to the State.

3 Q. Okay. Am I understanding
4 correctly that you just had kind of your own
5 handwritten notes about a witness interview,
6 that you would not have necessarily turned
7 that over to the State?

8 A. Sometimes that wouldn't go to the
9 State because it was attorney work product,
10 depending on how it was written and what was
11 said because a lot of times I am writing the
12 kind of cross-examination questions in there
13 or I am writing my thoughts in there, and
14 that's work product. Work product you don't
15 tender.

16 Q. I am going to put up a couple of
17 documents that you looked at already. I
18 have some specific questions about them, so
19 give me a second.

20 A. Okay.

21 Q. I am putting up the document that
22 David introduced as, I believe, Exhibit 20,
23 which is the formalized memo of this
24 interview with Rosendo Ochoa and ASA

1 Studenroth and yourself. Do you remember
2 looking at this a little bit earlier?

3 A. Yes.

4 Q. Do you have any reason to think
5 that this report did not accurately
6 memorialize what Mr. Ochoa told you during
7 this interview?

8 MR. BRUEGGEN: Objection.

9 MR. RAHE: Objection to form and
10 foundation.

11 THE WITNESS: Again, I see the
12 memo. My signature is on there. It must be
13 what he said. I don't have a recollection
14 of the interview, but I don't remember the
15 interview.

16 BY MS. BRADY:

17 Q. Do you recall David Studenroth
18 ever contacting you and saying no, this is
19 not what he said during this interview, he
20 said something else, or this isn't accurate,
21 or anything like that?

22 A. No.

23 Q. So this document reflects that
24 Mr. Ochoa told you that he was in his house

1 looking out the second floor window. Do you
2 see that?

3 A. Right.

4 Q. And he says he sees the guy behind
5 a tree shoot at the car. Do you see that?

6 A. Yes.

7 Q. He says the person who shot was a
8 male Hispanic, black pants?

9 A. Right.

10 Q. Black hooded sweatshirt, hood up,
11 his skin color was lighter than mine. He
12 looked white, but he was Latino.

13 Do you see that?

14 A. Yes.

15 Q. Do you have any reason to think
16 that this is not accurate?

17 A. No. Again, I don't remember it.
18 If it's written there, that's what I signed.
19 It must have been accurate at the time.

20 Q. And then David showed you Exhibit
21 21. I think this is the correct exhibit
22 label, which is this typed interview of Hugo
23 Rodriguez from the Blue Night Detective
24 Agency. Do you remember looking at that a

1 little bit earlier?

2 A. Yes.

3 Q. And I think the reason that -- it
4 is suggested that maybe this was your
5 interview. It says case number
6 Iglesias/DeLeon here at the top. Do you see
7 that?

8 A. Yes.

9 Q. Can you tell by looking at this
10 document whether you were even the one who
11 sent the investigator from the Blue Night
12 Detective Agency to do this interview?

13 A. I believe I must have.

14 Q. And what gives you that
15 impression?

16 A. Well, I would have sent an
17 investigator to talk to the witnesses, but
18 again, I don't have any independent
19 recollection of it.

20 Q. All right. And do you generally
21 trust your investigators were accurately
22 memorializing their interviews?

23 A. Sure.

24 Q. And it appears from this document

1 that Mr. Rodriguez says the shooter was
2 dressed in all black. Do you see that?

3 A. Yes.

4 Q. And the question is: Did you tell
5 him -- the officer at the scene that the
6 shooter was a male Hispanic, light
7 complexion? And the answer is yes.

8 A. Yes.

9 Q. The question is: "You saw him as
10 he ran away?

11 "Yes.

12 "And you observed him from
13 behind?

14 "Yes."

15 Do you see that?

16 A. Yes.

17 Q. Did you have any reason to think
18 that anything in this transcript of
19 Mr. Rodriguez's interview was inaccurate?

20 A. No reason to believe it was
21 inaccurate. I'm sure Blue Night is a
22 professional organization, and they did
23 their job.

24 Q. Do you recall whether the State

1 ever offered Guevara Iglesias any sort of
2 plea deal?

3 A. I don't recall.

4 Q. Were you aware in the mid-'90s
5 that police officers kept handwritten notes
6 in their files, as well as typed
7 memorialized general progress reports and
8 supp. reports?

9 MR. RAHE: Object to form.

10 THE WITNESS: I was aware that
11 police would take notes and put them in a
12 file called a street file. I just don't
13 remember when that came out. I remember it
14 wasn't a known practice at the beginning of
15 my career, but I remember sometime, I don't
16 know if it was in the late '80s or early
17 '90s, the news came out that there were
18 working files that the police had called
19 street files that they were not tendering to
20 the defense. And that the scandal, shall we
21 call it, came out, and all of a sudden they
22 had to tender street files to defense
23 lawyers on hundreds of cases that they had
24 never done that before.

1 Q. Did you as a defense attorney in
2 the mid-90's have a way of getting access to
3 the street file or handwritten notes that
4 police officers had created?

5 MR. RAHE: Objection to form and
6 foundation.

7 THE WITNESS: Well, if -- again, I
8 don't remember when that revelation came
9 out, what year it was, but I remember it was
10 a scandal. And after it came out, after
11 defense lawyers like myself were notified
12 that they had these street files, we would
13 start subpoenaing them. That's the method
14 that we used. We would send a specific
15 subpoena naming street files.

16 BY MS. BRADY:

17 Q. And do you -- strike that.

18 Did you have any way of
19 knowing whether all of the handwritten notes
20 had been provided to you in response to the
21 subpoena?

22 MR. RAHE: Objection to form and
23 foundation.

24 THE WITNESS: We had no way of

1 checking that. That would be up to the
2 person sending out the material.

3 BY MS. BRADY:

4 Q. Did you generally trust that the
5 Cook County State's Attorney's Office was
6 providing you with all of the documents in
7 their possession that you had requested?

8 MR. RAHE: Form.

9 THE WITNESS: I mean, we would --
10 the system is based on us. They trust us to
11 tender our discovery, and we trust them to
12 tender their discovery. And that's why it
13 was a scandal when we found out there were
14 street files not tendered.

15 BY MS. BRADY:

16 Q. So you are talking about the
17 police department?

18 A. No. I am talking about State's
19 Attorney's Office, too. If the State's
20 Attorney's Office knew that police were
21 generating street files, why didn't they
22 tender it to us --

23 Q. Okay.

24 A. -- if they knew? Unless the

1 police department was keeping them in the
2 dark too about it. I don't know the answers
3 to those questions.

4 Q. Can you recall an instance, as you
5 sit here today, in which you ever believed
6 that a prosecutor did not provide you with
7 all the potential exculpatory information
8 that the prosecutor had access to?

9 A. I can't recall any specific
10 instance today, no.

11 Q. If you would have known that there
12 was a witness to the shooting that
13 Mr. Iglesias was convicted of who knew the
14 shooter, saw a lineup, viewed Mr. Iglesias
15 in a lineup and did not identify himself as
16 the shooter, would you have relied on that
17 information at trial?

18 MR. BRUEGGEN: Objection.
19 Misstates the record. Assumes facts not in
20 evidence.

21 Go ahead, sir.

22 THE WITNESS: That's a lot of ifs,
23 but I certainly would have tried.

24

1 BY MS. BRADY:

2 Q. How would you have relied on that
3 information?

4 MR. BRUEGGEN: Objection.
5 Speculation.

6 THE WITNESS: Well, I suppose you
7 interview the witness, and if the witness
8 says that not only that he could not
9 identify the witness -- I mean not identify
10 Mr. Iglesias, but he'd have to say, that's
11 not him, then you'd call him as a witness.

12 BY MS. BRADY:

13 Q. Would you agree that that -- if a
14 witness knew who the shooter was and then
15 looked at Mr. Iglesias in a lineup and did
16 not select him that that would be
17 exculpatory?

18 MS. McGRATH: Objection. Form.

19 MR. BRUEGGEN: Assumes facts not
20 in evidence. Calls for speculation.
21 Incomplete hypothetical.

22 Go ahead.

23 THE WITNESS: I'm not sure -- if
24 he is going to say that's not him, that's

1 exculpatory. Just the fact he doesn't
2 recognize him, I don't think is that strong.

3 BY MS. BRADY:

4 Q. So it's not that strong, but it
5 still is at least a little exculpatory,
6 right?

7 MR. BRUEGGEN: Objection. Form.

8 THE WITNESS: Again, I think it
9 could help you but not much. Because the
10 State's Attorney is going to get up and say,
11 you didn't identify him in the lineup, and
12 the witness says, I'm not sure. I didn't
13 identify him because I wasn't sure it was
14 him. Then you are running the gamble that
15 he is going to say, well, now that I am
16 staring at him here in court, it does look
17 like him. I have had that happen in a
18 trial, so I wouldn't want to risk that.

19 BY MS. BRADY:

20 Q. Okay.

21 A. I wasn't the lawyer on it. It was
22 another lawyer in my -- in a trial I was
23 doing. There were two defendants fell into
24 that trap and caught a finger and lost the

1 case.

2 Q. I want to show you what I believe
3 Dave identified as exhibit --

4 MR. BRUEGGEN: Which document is
5 it, Rachel?

6 MS. BRADY: Wait, give me a
7 second. It's the clear close stuff.

8 MR. BRUEGGEN: Clear close is
9 Exhibit 10, RFC 10 to 13.

10 BY MS. BRADY:

11 Q. I am going to put up a document
12 that you looked at earlier. This was
13 Exhibit 10. Can you see this document on
14 your screen?

15 A. Yes.

16 Q. This is my version, and I put some
17 highlighting in it just to direct your
18 attention.

19 A. Okay.

20 MR. BRUEGGEN: Rachel, just to
21 clarify, are you going to leave the
22 highlighting in there? Because if you are,
23 can we mark it as 10A then just so we have a
24 copy of the one with the highlighting? So

1 when we go back and read the transcript, we
2 know what was directed to.

3 MS. BRADY: Let's just mark this
4 as a totally different exhibit. So we will
5 call this 23.

6 MR. BRUEGGEN: Yes.

7 MS. BRADY: So we are introducing
8 a new exhibit. We are calling it 23.

9
10 (Whereupon, DeLeon Deposition
11 Exhibit No. 23 was
12 screen-shared/referenced.)

13 BY MS. BRADY:

14 Q. And this is the same clear close
15 report, but it has my highlighting in it.

16 A. I didn't see it. Oh, now I see
17 the highlighting, okay.

18 Q. Okay. So you were asked some
19 questions about various witnesses in this
20 case and the relative importance of each of
21 the different witnesses, and I think that
22 you had said if a witness looked at a lineup
23 and didn't make any identifications that you
24 would want to talk to that witness, right?

1 MR. BRUEGGEN: Objection. Form.

2 THE WITNESS: I'd talk to the
3 witness. I said I may not call him.

4 MS. BRADY: I need to find another
5 report. Can we go off the record for a
6 second.

7 THE VIDEOGRAPHER: We are off the
8 record at 1:52 p.m.

9
10 (Whereupon, a break was taken
11 at 1:52 p.m. to 1:53 p.m.)

12 THE VIDEOGRAPHER: We are back on
13 the record at 1:53 p.m.

14 BY MS. BRADY:

15 Q. I am very sorry about that. So
16 here in this report, you can see the
17 highlighted section. It says, "ASA Latz
18 requested that two other persons listed in
19 the police reports as potential witnesses,
20 Efrain Torres and David Chmielewski, be
21 allowed to view Geraldo Iglesias in a
22 lineup."

23 A. Yes.

24 Q. And here, the next highlighted

1 section says, "Efrain Torres did not witness
2 this incident occur and made no
3 identifications."

4 Do see that?

5 A. Right.

6 Q. So what stock do you place in a
7 witness' non-identification if the report
8 says that he did not witness the incident?

9 MR. BRUEGGEN: Objection. Form.
10 Incomplete hypothetical.

11 Go ahead.

12 THE WITNESS: Well, I don't put
13 any stock in it, in his identification, or
14 misidentification or attempted
15 identification because he said he didn't
16 witness the incident.

17 MS. BRADY: Okay.

18 THE WITNESS: And the David
19 Chmielewski here says he never saw the face
20 of the offender, so what significance is it
21 that he didn't pick him out of the lineup?

22 BY MS. BRADY:

23 Q. Okay. And if you would have known
24 while you were investigating this case that,

1 in fact, Efrain Torres knew the shooter,
2 would that have changed your interpretation
3 of his identification?

4 A. How would I know that? It says he
5 didn't witness the incident.

6 MR. BRUEGGEN: Belated objection
7 to form and incomplete hypothetical.

8 BY MS. BRADY:

9 Q. So I am putting up what I believe
10 was Exhibit 7. This is RFC Iglesias 59,
11 which I think you took a look at earlier.

12 A. I saw that, yes.

13 Q. And I am directing your attention
14 to this handwriting down in the lower
15 left-hand corner, and this is an interview
16 with Sarah Torres, and it says here --

17 A. Okay.

18 Q. -- at least the way I am
19 interpreting this, son came from the boys
20 club, knows shooter. Do you see that?

21 A. Okay.

22 MR. BRUEGGEN: Objection.
23 Objection to the extent it misstates what it
24 says there.

1 Go ahead.

2 BY MS. BRADY:

3 Q. Do you agree that at least it's a
4 little ambiguous what this says, that it
5 could say that son came from boys club,
6 knows shooter?

7 MR. BRUEGGEN: Objection.

8 Foundation. Form.

9 THE WITNESS: I don't know. That
10 is written so badly, I don't know if it says
11 knows shooter or knows shorti. I don't
12 know. I don't know what that second word
13 is.

14 BY MS. BRADY:

15 Q. Is it possible that it says "knows
16 shooter"?

17 MR. BRUEGGEN: Objection.

18 THE WITNESS: It's possible.

19 MR. BRUEGGEN: Foundation.

20 Speculation.

21 BY MS. BRADY:

22 Q. So if you would have known that
23 Sarah Torres's son knew the shooter, and by
24 that I mean if you wouldn't have had access

1 to this document, and then you would have
2 seen this section of the police report that
3 says, Efrain Torres did not witness the
4 incident and made no identification, would
5 that have changed your approach to Efrain
6 Torres as a witness?

7 MR. BRUEGGEN: Objection.
8 Incomplete hypothetical.

9 MS. McGRATH: Objection. Form.

10 THE WITNESS: Well, it would have
11 changed my approach, and I'd want to talk to
12 Efrain Torres or have the investigator talk
13 to him and get to the bottom, yes. Because
14 I can see the ambiguity here. Police say he
15 didn't -- he told the police he didn't
16 witness it, and the other notes insinuate
17 that he knew the shooter.

18 BY MS. BRADY:

19 Q. And, in fact, this police report
20 that says Efrain Torres did not witness this
21 incident occur, that's just the detective's
22 version of what the witness may have said,
23 right? It doesn't necessarily mean that he
24 said that at all, does it?

1 A. Yes.

2 MR. RAHE: Object to form and
3 foundation.

4 MS. BRADY: Sorry, what was your
5 answer?

6 THE WITNESS: Yes.

7 BY MS. BRADY:

8 Q. Were you aware at any point during
9 Geraldo Iglesias's criminal proceedings that
10 the detectives made up a fake confidential
11 informant?

12 MS. McGRATH: Objection to form.

13 MR. BRUEGGEN: Objection.

14 Foundation.

15 THE WITNESS: I don't recall being
16 aware of that.

17 BY MS. BRADY:

18 Q. If you had been aware that the
19 detectives made up a confidential informant
20 and that no such confidential informant
21 actually existed, what would you have done
22 with that information?

23 MS. McGRATH: Objection. Form.

24 MR. BRUEGGEN: Assumes facts not

1 in evidence. Incomplete hypothetical.

2 THE WITNESS: If I could, I would
3 bring it out, obviously, but I don't know
4 how I could possibly know that.

5 BY MS. BRADY:

6 Q. If you would have been aware
7 during Geraldo Iglesias's prosecution that
8 the police used suggestive identification
9 procedures in order to get eyewitnesses to
10 identify Geraldo Iglesias out of a lineup,
11 would you have used that information in some
12 way?

13 A. Of course.

14 MS. McGRATH: Objection to form.

15 MR. BRUEGGEN: Objection. Assumes
16 facts not in evidence.

17 BY MS. BRADY:

18 Q. Why do you say of course?

19 A. Well, if I have any evidence that
20 the police used wrongdoing to convict
21 somebody, I am obligated to bring it out,
22 and I want to bring it out to show they did
23 wrong, and they are convicting an innocent
24 person.

1 MS. BRADY: I believe that I am
2 done with my questioning. Give me one
3 minute to just look over my notes.

4 THE WITNESS: Okay.

5 MS. BRADY: Thanks. Let's go off
6 the record for four minutes.

7 THE VIDEOGRAPHER: We are off the
8 record at 1:59 p.m.

9
10 (Whereupon, a break was taken
11 at 1:59 p.m. to 2:03 p.m.)

12 THE VIDEOGRAPHER: We are back on
13 the video record at 2:03 p.m.

14 MS. BRADY: Thanks, everyone, for
15 that little break. I don't have any more
16 questions, but some of the other attorneys
17 might have some follow-up, but I will thank
18 you for your time.

19 THE WITNESS: Thank you.

20 MR. BRUEGGEN: Mr. DeLeon, I don't
21 have anything in follow-up.

22 Austin, Megan, do you guys
23 have anything?

24 MR. RAHE: City doesn't have

1 anything.

2 MS. McGRATH: Everybody has asked
3 for a minute here, but can I take a
4 two-minute break just to look at something
5 in my notes just to make sure I understand,
6 and I probably don't, but I just want to
7 check this note. So I am going to do the
8 two minutes like everybody else.

9 THE WITNESS: Okay.

10 THE VIDEOGRAPHER: We are off the
11 video record at 2:04 p.m.

12 (Whereupon, a break was taken
13 at 2:04 p.m. to 2:07 p.m.)

14 THE VIDEOGRAPHER: We are back on
15 the video record at 2:07.

16 MS. McGRATH: Thank you. And
17 thank you for your patience, letting me look
18 at my notes, Mr. DeLeon. I don't have any
19 additional questions, and thank you so much
20 for your time.

21 MR. BRUEGGEN: Mr. DeLeon, I have
22 one additional question, but it's not
23 substantive, but it's about the transcript,
24 whether you'd like to reserve signature or

1 waive signature. I am going to explain that
2 to you is the court reporter has been typing
3 everything up. When it's printed out, you
4 have the opportunity to reserve, you know,
5 you get to read it over. You can't change
6 any answers, but you can correct
7 mistranscriptions, stuff of that nature, and
8 you sign off on it. Or you can waive
9 signature and trust she wrote down
10 everything appropriately, but the choice is
11 yours, sir.

12 THE WITNESS: I trust her. Waive
13 signature.

14 MR. BRUEGGEN: Let the record
15 reflect signature is waived. You are done,
16 Mr. DeLeon. I appreciate your time. Thank
17 you very much.

18 THE WITNESS: Thank you. Thank
19 you, everybody. Have a good day.

20 (Discussion had off the
21 stenographic record.)

22 THE VIDEOGRAPHER: This concludes
23 today's deposition of John DeLeon. We are
24 off the video record at 2:08 p.m. at the end

of Media Unit 3.

(Deposition proceedings

concluded at 2:08 p.m.)

* * * * *

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF DUPAGE)

4 I, MARIBETH REILLY, a notary public
5 within and for the County of DuPage and
6 State of Illinois, do hereby certify that
7 heretofore, to-wit, on April 6, 2022, JOHN
8 DeLEON remotely appeared before me via Zoom
9 Teleconference in a cause now pending and
10 undetermined in the United States District
11 Court, Northern District of Illinois,
12 Eastern Division, wherein GERALDO IGLESIAS
13 is the Plaintiff, and the CITY OF CHICAGO,
14 ET AL., are the Defendants.

15 I further certify that the said JOHN
16 DeLEON was first administered an oath to
17 testify the truth, the whole truth and
18 nothing but the truth in the cause
19 aforesaid; that the testimony then given by
20 said witness was reported stenographically
21 by me in the remote presence of the said
22 witness, and afterwards reduced to
23 typewriting by Computer-Aided Transcription,
24 and the foregoing is a true and correct

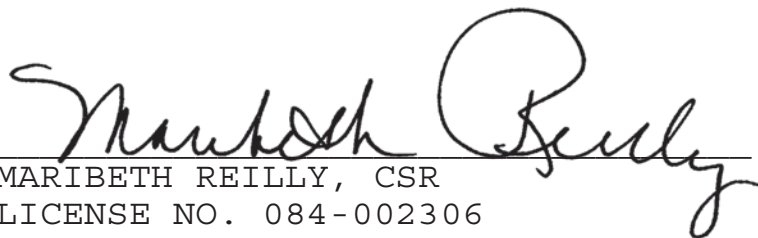
1 transcript of the testimony so given by said
2 witness as aforesaid.

3 I further certify that the signature
4 to the foregoing deposition was waived by
5 the witness, and that there were present at
6 the deposition the attorneys hereinbefore
7 mentioned.

8 I further certify that I am not
9 counsel for nor in any way related to the
10 parties to this suit, nor am I in any way
11 interested in the outcome thereof.

12 IN TESTIMONY WHEREOF: I certify to
13 the above facts this 25th day of April,
14 2022.

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MARIBETH REILLY, CSR
LICENSE NO. 084-002306

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EXHIBIT 37

STATEMENT OF

FRANCISCO VICENTE AKA CHINO

Taken July 16, 1993 At 10:45A

At 2650 S. CALIFORNIA Rm 406

Present Mary Roberts ASA

Ed Doyle CCSP STAR 556

This statement taken regarding the 1st Degree Murder
of Monica Roman which occurred on June 7, 1993
at 2148 N SAWYER at 3:56 p.m.

~~I understand I have the right to remain silent and that anything I say can be used against me in a court of law. I understand that I have the right to talk to a lawyer and have him present with me during questioning, and if I cannot afford to hire a lawyer one will be appointed by the court to represent me before any questioning. Understanding these rights, I wish to give a statement.~~

After being advised that Mary Roberts is an assistant State's attorney, a prosecutor and not his lawyer and not Gerald Iglesias' lawyer Francisco Vicente AKA Chino agreed to give the following statement in summary and not word for word.

Francisco Vicente AKA Chino who will here in after be referred to as Chino throughout ^{me & C.D.} this STATEMENT said that he has known GERALDO IGLESIAS AKA SNAKE for the last three years. (GERALDO IGLESIAS will be referred to as SNAKE for the remainder of this STATEMENT)

Chino stated that he knows SNAKE because both of them are in the Imperial Gangsters Street Gang. Chino stated that SNAKE hangs out

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on Spaulding which is the area of Spaulding and Palmer with a Boys Club down the street on Palmer. Chino stated that Snake hangs out in this area and he has hung out with Snake by the Boys Club in this area.

Chino stated that on June 25, 1993 at approximately 5:30-6:00 in the morning he was in the Division 10 Bullpen in Division 10 in the Cook County Jail. Chino stated that Snake was also in the Bullpen. Chino stated that he and Snake began talking about murders that happened in their neighborhood and they 1st talked about a murder that happened at Fullerton and ~~BEAVER~~ ^{MR. F.V. ED.} CENTRAL PARK.

Chino stated that he told Snake his mother had told him about a murder at Spaulding and Palmer. Chino said that Snake told him that he was in jail for that murder.

SNAKE told Chino that he was standing on the corner of Spaulding and Palmer with a few of the brothers and he saw a car coming down the street. Snake told Chino that the guys in the car were looking around and looking nervous. Snake told Chino he thought the guys in the car were ~~LATIN~~ ^{KINGS} ~~ENGLES~~ ^{ME & ED}. Snake told Chino that the car pulled up by the corner of the alley.

SNAKE told Chino that before the car pulled

Francisco Vicente Mary Roberts ASA.

up to the alley, that he and his brothers started representing his gang and disrespecting the Latin King gang by showing different gang signals. SNAKE told Chino the guys in the car did not show any gang signs.

Chino STATED THAT SNAKE told him that once the car parked in the alley a ^{my friend} "Bitch" jumped out of the car and ran into the building by the alley. SNAKE SAID THAT AT this point one of the brothers ran and got a "gun" which is a gun and came back to where SNAKE WAS STANDING AND GAVE SNAKE the gun.

SNAKE SAID THAT when the brother gave him the gun they walked closer to the car of Latin Kings. SNAKE SAID THAT AS THEY got closer to the car the girl who had jumped out of the car was now back at the car with another female.

SNAKE SAID THAT he then started shooting at the car. SNAKE STATED THAT when he shot he "shot the bitch in the head" SNAKE SAID THAT when he "shot the bitch in the head" he ran.

Chino SAID THAT he has not been promised anything or threatened in any way in exchange for this statement. He also understands that he can make any additions or corrections to this statement and has done so to this statement.

20. *Edmundo Rios*
 Francisco Vicente Mary Robles ASA

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EXHIBIT 38

Second Division
October 28, 1997

No. 1-95-1249

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 93 CR 18173
)	
ARMANDO SERRANO,)	Honorable
)	Michael B. Bolan,
Defendant-Appellant.)	Judge Presiding.

O R D E R

Defendant Armando Serrano and codefendants Jorge Pacheco and Jose Montanez were tried in simultaneously held but severed bench trials. Defendant was convicted of first degree murder and attempted armed robbery and sentenced to consecutive prison terms of 45 years and 10 years respectively. He contends on appeal that the trial court erroneously admitted against him inculpatory statements made by a codefendant, that the State failed to prove him guilty beyond a reasonable doubt, and that the court abused its discretion by imposing consecutive sentences.

Defendant's convictions arose from the fatal shooting of Rodrigo Vargas on February 5, 1993. The victim's body was found in his van, parked near his residence on North Springfield Avenue in Chicago. Medical evidence showed that he died from multiple gunshot wounds, and two 9-millimeter bullets were recovered from

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his body.

Anna Velez, the victim's neighbor, testified that she heard gunshots at 5:30 a.m. on the day the victim was killed. She later discovered the victim's body inside his van. Another neighbor, Gary Shoop, also heard six or seven gunshots at 5:30 a.m. He saw a brown or tan General Motors sedan speed away and heard squealing tires as it turned the corner. The police recovered eight 9-millimeter shell casings next to the van. The victim's radio and his wallet containing \$190 were in the locked van.

The State's chief witness was Francisco Vicente. The State established that it agreed to recommend concurrent six-year prison sentences on Vicente's three pending armed robbery charges and a consecutive three-year sentence on a pending robbery charge in exchange for his testimony. Because Vicente was arrested for armed robbery with a man nicknamed "Pistol Pete" and Detective Halvorsen had heard rumors that "Pistol Pete" was involved in this shooting, Halvorsen questioned Vicente in June 1993 regarding this case. Vicente told him that Pistol Pete was the correct nickname, but the man involved in the shooting was another Pistol Pete. Vicente then gave a lengthy statement about the victim's murder, including the nicknames of two other fellow street gang members, "Mando" and "Jordan," who were involved in the murder. Using a nickname file at the police station, Halvorsen was able to identify defendant as "Mando," "Pistol

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Pete" as codefendant Montanez, and "Jordan" as codefendant Pacheco. When shown police department photographs on file for the three men, Vicente identified them as the men about whom he was speaking.

At trial, Vicente was asked, "Armando Serrano, how long have you known him?" Vicente answered that he had known defendant for six years. At the same time, defendant answered from the defense table, "seen him around." Vicente identified defendant at trial as a fellow gang member called "Mando."

About 8 a.m. on February 5, Vicente was "hanging out" when defendant and codefendants drove up in a tan Buick. Montanez was "playing with a bag of dope," which Vicente recognized as heroin. Defendant and Pacheco exited the car. Anticipating that the police might drive by, Montanez removed a 9-millimeter automatic pistol from under the dashboard, put it into an air vent, locked the car and threw the keys into the grass.

Vicente testified that the following conversation then took place over several hours. Defendant and codefendants "were talking about that they had committed a murder." The three of them were arguing. Montanez stated that defendant "fucked up and went at the guy the wrong way." Defendant, who was only a few feet away, and Pacheco answered that they could always get another "vic" to rob. Montanez stated that defendant "went at the guy the wrong way" and if defendant had never grabbed the radio, everything would have gone right. Defendant stated that

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if Montanez had grabbed the victim by his neck, maybe they would have had a better chance to get his money. Pacheco stated that Montanez was the biggest and should have been the one to grab the victim by the neck. The men then began calling each other "bitches" and "punk."

Vicente also testified that Montanez told him that the day before when they were at a gas station, the victim came in and pulled out a "big knot of money." Montanez said they were going to rob him. They could not do it at that time, however, because the victim's wife was aware they were being followed, and the victim's children were also in the van. Defendant did not object to or dispute anything Montanez told Vicente. Several days later, when Vicente asked Montanez how his car had been damaged, Montanez told him that Pacheco damaged the left front fender during the course of the robbery of "the Mexican stud."

Vicente admitted at trial that on February 5 he had used heroin about seven hours before talking with defendant and codefendants. He testified, however, that he was not "high" at the time but was "coming down off of it." He also admitted that he did not tell the police about the conversation until after he was arrested in May 1993 for armed robbery. On cross-examination, Vicente admitted that he had given the police a false name when he was arrested in 1990. He also admitted that he was ~~presently incarcerated in the witness quarters~~ and had been given cigarettes, a sweatsuit and a radio. He testified

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further that when defendant and codefendants drove up on February 5, they looked "scratchy" or drowsy as if they were "high" on heroin. Vicente also admitted that while he was talking to Montanez, he did not know whether defendant was listening. But he persisted that "they were all bragging about it" in his presence.

Vicente also testified on cross-examination that when he spoke to Assistant State's Attorney Coghlan on September 21, 1994, and reviewed the detective's report of his previous statement, he stated that the report was basically correct but was missing certain information, which he had not previously told the detectives. This information, which was also absent from Vicente's grand jury testimony, was as follows. Defendant said to Montanez, "You should have 'ganked' [explained as meaning to apply a chokehold in order to rob] the victim so that I could have gone through his pockets." Pacheco said, "Yeah, you're bigger than us, you should have 'ganked' him from behind." The three men began calling each other "bitches" and "punk." Also defendant said, "well, we can always do another one."

The victim's wife, Wilda Vargas, testified through an interpreter that on February 4, 1993, she and the victim had gone to the bank and then stopped at a gas station. The victim went into the station while she and their children stayed in the van. A brown- and cream-colored four-door vehicle pulled in front of the van at a 45 degree angle. Three men were in the vehicle --

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the driver and two men in the rear seat. She could see the driver and one passenger but could not see the face of the third man. She testified that after the driver went into the gas station and the victim returned to the van, the victim honked to signal the car in front to move. The victim became angry and cursed when the men would not move the car. The driver then returned to his vehicle and drove off, screeching the tires. As the victim drove toward their home, he told Wilda that the men were following them. Wilda saw the vehicle behind them but testified that she was unsure if it followed them all the way home because she did not look back after they made a left turn.

Wilda did not immediately think of this incident at the gas station when she learned her husband was shot the following morning. She did recall it later when questioned by detectives, and when she drove with them through the neighborhood around the gas station, she identified the brown- and cream-colored vehicle. It was later established that the car had no license plates, but the vehicle identification number showed that it was registered to codefendant Montanez. She testified that the vehicle had sustained damage that it did not have when she saw it at the gas station. Although Wilda testified that this identification occurred four days after the shooting, Detective Halvorsen testified that it actually occurred in June, four months after the shooting.

At trial, when first asked to identify the man who drove the

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vehicle at the gas station, Wilda identified defendant. When the prosecutor asked defendant and codefendants to stand, Wilda then identified Montanez as the driver and stated, "He's heavier now." In June 1993, Wilda identified photographs of defendant and Montanez as the two men she saw in the brown vehicle. At trial, she chose the same photographs from an array and identified Montanez as the driver and defendant as the passenger in the rear seat. She then, however, identified Pacheco at trial as the passenger. Wilda also testified that she viewed a lineup on June 11, 1993, and identified only defendant. At trial, she viewed a photograph of that lineup and again identified defendant from the photograph. However, when asked to identify the person in court whom she had identified at the lineup, she identified Pacheco. The court subsequently found Wilda's identification of defendant unreliable.

The trial court evaluated Vicente's testimony "with great scrutiny" and found that because it was corroborated, a conviction could be predicated upon it. The court stated that it was convinced beyond a reasonable doubt that defendant was with Montanez at the scene of the murder and was talking about it shortly afterward with Vicente, and thus found him guilty.

At the hearing on defendant's motion for a new trial, defendant's counsel argued that if portions of Vicente's statement that he had not included when first questioned and did not include in his grand jury testimony were excluded from

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consideration, then at most defendant would have been implicated by an admission by silence. Counsel argued that defendant, who was on heroin when Montanez spoke to Vicente, could not be expected to respond when he was "doped up." The court found that the challenged "new" statements either did not relate to this crime (defendant stated they could always get another "vic") or did not implicate defendant further ("started calling each other bitches and punk"). Finding that the evidence against defendant was sufficient, the court denied defendant's motion.

At the sentencing hearing, the State presented in aggravation evidence of defendant's prior conviction for robbery. Police officers also testified to defendant's prior arrests for burglary, battery of a police officer following a traffic stop and possession of a controlled substance. The trial court stated that it considered the statutory factors in aggravation and mitigation and the possibility of defendant's rehabilitation. Stating that this crime of greed caused the death of a young, productive man and that it considered the sentence necessary for deterrence, the court imposed consecutive terms of 45 and 10 years in prison. The court subsequently denied defendant's motion to reconsider his sentence.

Defendant first contends that the trial court erred in admitting Montanez' statement to Vicente against defendant. When an incriminating statement is made in the presence and hearing of the accused and he does not object or contradict it, both the

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statement and the fact that he did not deny it are admissible as evidence of his admission by silence or implied admission. People v. Sneed, 274 Ill. App. 3d 287, 295 (1995); People v. Miller, 128 Ill. App. 3d 574, 583 (1984). To qualify as an admission by silence exception to the hearsay rule, there must be evidence that the defendant heard the statement, that it was made under circumstances which provided an opportunity for him to reply, and that a similarly situated person would ordinarily have denied the accusation. Sneed, 274 Ill. App. 3d at 295; People v. Goswami, 237 Ill. App. 3d 532, 535-37 (1992); People v. Cihak, 169 Ill. App. 3d 606, 611-13 (1988).

In this case, the evidence established that defendant did not deny, contradict or object to Montanez' statement to Vicente that "Mando [defendant] fucked up and went at the guy the wrong way" and if defendant had not grabbed the radio, everything would have gone right. This statement occurred in the context of a conversation in which defendant and codefendants on the morning of February 5, 1993, were talking about a murder they had committed. The trial court was aware of the fact that the men were using drugs, but found that this circumstance did not render the evidence in question inadmissible. See People v. Patterson, 154 Ill. 2d 414, 463 (1992). Because defendant did not deny Montanez' accusation, the trial court properly considered the statement and defendant's failure to deny it as an admission of its truth. Sneed, 274 Ill. App. 3d at 296; Miller, 128 Ill. App.

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3d at 583-84.

Defendant next contends that he was not proved guilty beyond a reasonable doubt because the State's only witness against him was a drug addict, was "significantly impeached" and testified in exchange for a plea bargain. Testimony of an addict must be viewed with caution and is enough to sustain a conviction if credible in view of the surrounding circumstances. People v. Steidl, 142 Ill. 2d 204, 227 (1991). A reviewing court must determine, viewing all of the evidence in the light most favorable to the prosecution, whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. People v. Batchelor, 171 Ill. 2d 367, 376 (1996). The trial court considered Vicente's testimony with great scrutiny and accepted it because it was corroborated by other evidence. The victim's wife identified Montanez' brown- and cream-colored car as the same vehicle she had seen at the gas station and following them home the night before the shooting. The victim's neighbor saw a brown or tan sedan leaving the scene just after several shots were fired. The shell casings recovered at the scene and the bullets recovered from the victim's body were 9 millimeter. Vicente saw Montanez remove a 9-millimeter automatic pistol from under the dashboard when he and defendant drove up after the shooting.

The trial court was in the best position to judge the credibility of Vicente's testimony (People v. Campbell, 146 Ill.

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2d 363, 375 (1992)), and the court found it sufficient to support defendant's conviction. We will not substitute our judgment for the trier of fact. Campbell, 146 Ill. 2d at 388-89. Viewing all the evidence in the light most favorable to the prosecution, we cannot say that no rational trier of fact could have found defendant accountable for first degree murder and attempted armed robbery beyond a reasonable doubt. Batchelor, 171 Ill. 2d at 377; see also Campbell, 146 Ill. 2d at 379-80, 389.

Finally, we find no merit to defendant's contention that the trial court abused its discretion by sentencing him to consecutive rather than concurrent terms of imprisonment. Section 5-8-4(a) of the Unified Code of Corrections (730 ILCS 5/5-8-4(a) (West 1994)) states in pertinent part that a court "shall not impose consecutive sentences for offenses which were committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective, unless one of the offenses for which defendant was convicted was a Class X or Class 1 felony and the defendant inflicted severe bodily injury, *** in which event the court shall enter sentences to run consecutively." We agree with the State that the requirements for consecutive sentences were met in this case. See People v. Arna, 168 Ill. 2d 107, 113 (1995); People v. Johnson, 149 Ill. 2d 118, 159 (1992). Although the attempted armed robbery and first degree murder were committed during a single course of conduct during which there was no

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substantial change in defendant's criminal objective in attempting to rob the victim, serious bodily injury was inflicted on the victim. The bodily injury was inflicted during the course of an attempted armed robbery, which is a Class 1 felony punishable by 4 to 15 years in prison. 720 ILCS 5/18-2 (West 1994); 720 ILCS 5/8-4 (West 1994); 730 ILCS 5/5-8-1(a)(4) (West 1994). First degree murder is punishable by a prison term of 20 to 60 years. 730 ILCS 5/5-8-1(a)(1)(a) (West 1994). The trial court did not abuse its discretion in sentencing defendant to consecutive terms of imprisonment. See People v. Medrano, 282 Ill. App. 3d 887, 896-97 (1996); People v. Porter, 277 Ill. App. 3d 194, 199 (1995); People v. Ivey, 267 Ill. App. 3d 310, 312-13 (1994); People v. Williams, 263 Ill. App. 3d 1098, 1108-09 (1994).

Accordingly, the judgment of the trial court is affirmed. As part of our judgment, we grant the State's request and assess defendant \$100 in costs for this appeal.

Affirmed.

FROSSARD, J., with McNULTY, P.J., and TULLY, J., concurring.

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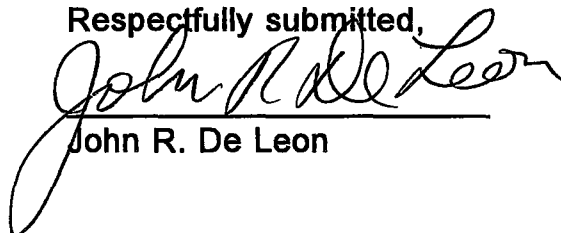
EXHIBIT 39

MEMORANDUM OF INTERVIEW OF ROSENDO OCHOA

Rosendo Ochoa a/k/a Geraldo Najera interviewed by Attorney De Leon in the presence of ASA Studenroth and Transportation D.O.C. Off. M. Patte and R Gib's, on October 5, 1994 at Room 602, Jury Chambers (Judge Suria's courtroom) witness Ochoa (Najera stated that he is in Galesburg Correctional Center for V.O.P. and a drug case.) Judge Hibbler gave him four years.

In summary he said: I was in my house looking out the second floor window. I saw the car Monica was in go North on Sawyer. It is a one-way north. I seen one guy behind a tree shoot at the car. No gang signs were exchanged, but the guy said something I could not hear. No-one in the car gave gang signs. I was about 2 houses down and across the street. The person who shot was a male hispanic, black pants, black hooded sweatshirt, hoodup, his skin color was lighter than mine. He looked white but he was Latino, not as dark as me. (The witness pointed to the ASA David Studenroth, white like this pointing his finger at ASA's hand) but not a white guy he was hispanic.) He again was asked if he was white the witness said, no he was definitely hispanic but light skin, not as dark as me. (indicating the witness Ochoa himself.) Witness was very descriptive as to the events and ASA commented on his excellent memory of events as they occurred.

Respectfully submitted,


John R. De Leon

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EXHIBIT 40

BLUE KNIGHT DETECTIVE AGENCY
AND SECURITY COMPANY, INC
9656 SOUTH COMMERCIAL AVENUE
CHICAGO, IL 60617

DATE: 12 NOV 94

CASE NO: IGLESIAS/
DELEON

INVESTIGATOR'S REPORT:

NOV 9, 1530 HRS: PROCEEDED TO 4903 N. TROY IN AN ATTEMPT TO LOCATE HUGO RODRIGUEZ. TALKED TO HISPANIC MALE, RELATED THAT HUGO WOULD BE HOME AFTER 5:00 P.M..

NOV 9, 2100 HRS: RETURNED TO 4903 N. TROY IN ANOTHER ATTEMPT TO CONTACT HUGO RODRIGUEZ. SPOKE TO YOUNG HISPANIC MALE WHO IDENTIFIED HIMSELF AS HUGO'S BROTHER, FRANK. FRANK SAID THAT HUGO WAS NOT AT HOME AND DIDN'T KNOW WHEN HE WOULD COME, MAYBE LATE. GAVE FRANK MY BUSINESS CARD AND REQUESTED THAT HE GIVE IT TO HUGO AND HAVE HIM CALL ME TO SET UP A MEETING.

NOV 10, 1630 HRS: PROCEEDED TO 4903 N. TROY IN AN ATTEMPT TO CONTACT HUGO RODRIGUEZ. SPOKE TO A HISPANIC MALE WHO IDENTIFIED HIMSELF AS HUGO'S BROTHER, JUAN. JUAN RELATED THAT HUGO WAS NOT AT HOME AND DID NOT KNOW WHEN HE WOULD RETURN, PROBABLY VERY LATE. GAVE JUAN MY BUSINESS CARD AND REQUESTED THAT HE TELL HUGO TO GIVE ME A CALL, TO CALL COLLECT IF NECESSARY.

NOV 11, 0545 HRS: ARRIVED AT 4903 N. TROY IN AN ATTEMPT TO CONTACT HUGO RODRIGUEZ BEFORE HE WENT TO WORK. WAITED OUTSIDE OF RESIDENCE, APARTMENT WAS DARK. A YOUNG HISPANIC MALE EXITED THE BUILDING AT 0615 WITH A BICYCLE. I APPROACHED HIM AND ASKED IF HE WAS HUGO, HE REPLIED NO AND RODE HIS BIKE AWAY.

0630 HRS: A MIDDLE AGED HISPANIC MALE EXITED THE BUILDING CARRYING WHAT APPEARED TO BE A BAG OF GARBAGE AND A LUNCH AND WENT AROUND THE SIDE OF THE BUILDING TO THROW THE TRASH AWAY. I APPROACHED HIM AND ASKED HIM IF HE KNEW HUGO RODRIGUEZ, HE REPLIED YES AND WE RETURNED TO THE ENTRANCE TO THE APARTMENT BUILDING. AS WE APPROACHED THE DOOR, THREE YOUNG HISPANIC MALES WERE COMING OUT THE DOOR. I ASKED THE MAN IF ONE OF THEM WAS HUGO AND HE POINTED TO THE LAST INDIVIDUAL, WHO STOPPED IN HIS TRACK AND LOOKED VERY SURPRISED. I ASKED HIM IF HE WAS HUGO AND HE SAID NO. I TOLD HIM THAT THE OTHER MAN SAID THAT HE WAS. THEY EXCHANGED WORD IN SPANISH. I AGAIN ASKED THE YOUNG HISPANIC MALE IF HE WAS HUGO AND HE STATED THAT HE WAS. I REQUESTED TO TALK TO HIM FOR A FEW MOMENT TO WHICH HE REPLIED THAT THEY WERE GOING TO WORK AND DID NOT HAVE TIME AND WOULD SPEAK WITH ME LATER. I ASKED HIM WHEN, HE REPLIED LATER. I ASKED FOR A TIME, BUT ALL HE SAID WAS LATER AND THE FOUR HISPANIC MALES HURRIED AWAY.

1800 HRS: RETURNED TO 4903 N. TROY TO CONTACT HUGO RODRIGUEZ. THE DOOR WAS AGAIN ANSWERED BY HUGO'S BROTHER FRANK. FRANK STATED THAT HUGO WAS NOT AT HOME AND DID NOT KNOW WHEN HE WOULD RETURN. TOLD FRANK THAT I WOULD RETURN

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INVESTIGATOR'S REPORT:

IN THE MORNING TO TALK TO HUGO.

NOV 12, 0700 HRS: RETURNED TO 4903 N. TROY TO CONTACT HUGO RODRIGUEZ. THE DOOR WAS ANSWERED BY A YOUNG HISPANIC MALE. HE WAS IN THE GROUP OF HISPANIC MALES THAT I HAD CONFRONTED AT 0630 HRS ON NOV 11TH, BUT NOT THE INDIVIDUAL WHO HAD IDENTIFIED HIMSELF AS HUGO. WHEN ASKED TO SPEAK WITH HUGO, HE REPLIED THAT HE WAS HUGO AND INVITED ME INTO THE APARTMENT. AFTER ASCERTAINING THAT THIS INDIVIDUAL WAS IN FACT HUGO RODRIGUEZ, I INTERVIEWED HIM IN SUBSTANCE AS FOLLOWS:

Q: YOU SPOKE TO A LATINO OFFICER, OFFICER ZUNIGA AFTER THE INCIDENT? YES.

A: YES.

Q: DID YOU TELL OFFICE ZUNIGA A DESCRIPTION OF THE OFFENDER?

A: YES.

Q: WHAT WAS THAT DESCRIPTION?

A: HE WAS DRESSED ALL IN BLACK.

Q: DID YOU TELL HIM THE SHOOTER WAS A MALE HISPANIC LIGHT COMPLEXION?

A: YES.

Q: YOU SAW HIM AS HE RAN AWAY?

A: YES.

Q: YOU OBSERVED HIM FROM BEHIND?

A: YES.

Q: TELL US WHAT YOU SAW?

A: RIGHT AFTER I HEARD THE SHOT I TURNED AND SAW HIS FACE BEFORE HE COVERED IT UP AND TURNED AND RAN.

Q: YOU DID NOT SEE HIM WHILE HE WAS SHOOTING BECAUSE YOU DUCKED DOWN CORRECT?

A: NO. WE WERE TALKING, WE HEARD THE SHOT AND I LOOKED AROUND.

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INVESTIGATOR'S REPORT:

Q: HE WAS HIDING ~~A~~ BEHIND A TREE?

A: NO.

Q: SHOOTER PERSON WAS A TOTAL STRANGER TO YOU? YOU NEVER SAW HIM BEFORE?

A: I NEVER SAW HIM, I DON'T KNOW HIM.

Q: ANY GNAG HAND SIGNS EXCHANGED BETWEEN YOU OR THE GUYS IN THE CAR AND HIM?

A: NO, BECAUSE NOBODY IN THE CAR WAS A GANG MEMBER.

Q: DID HE YELL "LATIN KING LOVE"?

A: HE JUST SAID "KING LOVE" AND STARTED SHOOTING.

Q: ONLY SAW ONE PERSON, ONE OFFENDER NOT A GROUP?

A: HE WAS ALONE.

Q: YOU DID NOT PICK PERSON OUT OF LINEUP?

A: YES.

Q: YOU LOOKED AT A LINEUP DIDN'T YOU? (IN PERSON LINEUP)

A: YES.

Q: DID YOU ONLY LOOK AT A PHOTO LINEUP?

A: FIRST PICTURES, THEN THROUGH THE GLASS AT PEOPLE.

Q: AS YOU PICKED HIM OUT OF PHOTO LINEUP TOLD DETECTIVES IT LOOKS LIKE HIM BUT YOUR NOT SURE?

A: NO, I WAS SURE.

Q: ARE YOU A MEMBER OF A GANG?

A: NO.

Q: HAVE YOU EVER BEEN ARRESTED OR CONVICTED AS A JUVENILE?

A: YES. I WAS ARRESTED FOR A STOLEN STEREO. I WAS THE DRIVER OF THE CAR, BUT IT IS ALL CLEARED UP NOW.

I THEN REQUESTED THAT HE READ AND SIGN HIS STATEMENT WHICH HE DID. I THANKED HIM FOR HIS TIME AND DEPARTED.